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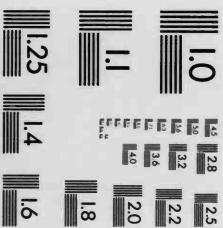
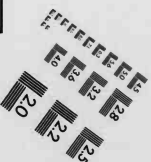
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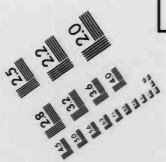
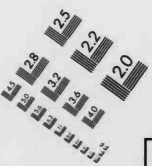
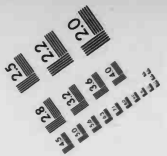
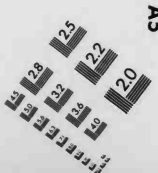


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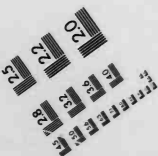
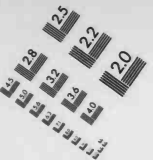
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WAGE-HOUR RECORDS

What Records to Keep and How to Keep Them

Text of Regulations

Issued by the Administrator of the Wage and Hour Division

With

Official Explanatory Bulletin

And

Sample Record Forms

Reprinted From

WAGE AND HOUR REPORTER

Published By

THE BUREAU OF NATIONAL AFFAIRS, INC.

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Official Action Taken by the Wage and Hour Division

RECORDS TO BE KEPT Part 516—How to Keep Wage and Hour Records under the Fair Labor Standards Act of 1938.

Issued by the Administrator of the Wage and Hour Division Sept. 15, 1941, effective Sept. 15, 1941. These regulations repeal and supersede all regulations previously issued on records to be kept by employers pursuant to Section 11(c) of the Fair Labor Standards Act.

The first two sections (516.1 and 516.2), set in larger type, show employers how to keep records for employees entitled to the minimum wage and to overtime after 40 hours a week. Most of the other sections deal with the keeping of records under exemptions from the Act. Record-keeping regulations on exemptions of executives and others may be found on page 496. Attention is called to Section 516.14, "Length of Time Records Shall Be Preserved," on page 498.

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I—General Requirements

SEC. 516.1—RECORDS

(a) No particular order or form of records is prescribed by these Regulations. Every employer subject to any provisions of the Fair Labor Standards Act or of any order issued under this Act shall, however, make and keep records containing the information and data on persons in his employ and their wages, hours, and other conditions and practices of employment as provided in any of the applicable sections 516.2 through 516.13 of these Regulations. Every employer shall preserve his records for the periods of time and under the conditions provided in sections 516.14 through 516.16. As provided in section 516.17, every employer shall submit such reports and make such extension, recomputation, or transcription of those records as the Administrator or his duly authorized and designated representative may require.

(b) Total daily or weekly straight-time earnings or wages,⁸

(c) Total weekly overtime excess compensation,⁹

(d) Total additions to or deductions from wages paid each pay period,¹⁰

(e) Total wages paid each pay period,¹¹

(f) Date of payment and the pay period covered by payment.

1 For the period records must be preserved, see sections 516.14 and 516.15.

2 For additional requirements on certain types of employees covered by more than one minimum hourly wage set by one or more wage orders, see section 516.8.

3 For additional requirements on Learners, Apprentices, Messengers, and Handicapped Workers under Special Certificates, see section 516.9.

4 For additional requirements on Employees dependent upon tips or gratuities as a part of wages, see section 516.10.

5 For requirements on Industrial Homeworkers, see section 516.11.

6 This shall be the same name as that used for Social Security record purposes.

7 If the employee is a part of a workforce or employed in or by an establishment all of whose workers have a workweek beginning at the same time on the same day, a single notation of the time of the day and beginning day of the workweek for the whole workforce or establishment will suffice. If, however, any employee or group of employees has a workweek beginning and ending at a different time, a separate notation shall then be kept for that employee or group of employees.

8 This item is only required to be entered

ployer shall maintain and preserve¹ payroll or other records containing the following information and data on each and every employee to whom both Sections 6 and 7 (a) of the Fair Labor Standards Act apply.²

(1) Name in full,³

(And on the same record, the employee's identifying symbol or number if such is used in place of name on any time, work, or payroll records)

(2) Home address,

(3) Date of birth if under 19,

(4) Occupation in which employed,

(5) Time of day and name of the day on which the employee's workweek begins,⁴

(6) (i) Regular hourly rate of pay,⁵ and (ii) Basis on which wages are paid,⁶

(7) Hours worked each work-day⁷ and total hours worked each workweek,

(8) Total daily or weekly straight-time earnings or wages,⁸

(9) Total weekly overtime excess compensation,⁹

(10) Total additions to or deductions from wages paid each pay period,¹⁰

(11) Total wages paid each pay period,

(12) Date of payment and the pay period covered by payment.

SEC. 516.2—EMPLOYEES SUBJECT TO MINIMUM WAGE AND 40-HOUR WEEK OVERTIME PROVISIONS—SECTIONS 6 AND 7(a)

(a) Items Required. Every em-

in the records for any week when overtime is worked and overtime excess compensation is due under Section 7(a). When required, it shall be shown as the hourly rate of any employee whose total straight-time earnings or wages are derived from one fixed hourly rate throughout the workweek, or the average hourly earnings, as determined in accordance with paragraph 7 of Interpretative Bulletin No. 4 [1941 WH Man. 127], for any employee employed on any other basis.

6 This may be shown as "50c hr.", "\$3.00 a day"; "\$3.20, 8 hr. day"; "\$15.00 wk."; "\$15.00, 40 hr. wk."; "\$15.00 mo."; "piece rates"; "piece rates and bonus."

7 A "workday" with respect to any employee shall be any consecutive 24 hours.

8 That is: The total earnings or wages due for hours worked during the workday or workweek, including all earnings or wages due during any overtime worked, but exclusive of overtime excess compensation.

9 That is: The excess compensation for overtime worked which amount is over and above all straight-time earnings or wages also earned during overtime worked. For the basis to be used in determining overtime payments under the Fair Labor Standards Act, see Interpretative Bulletin No. 3 [1941 WH Man. 127].

10 As to the effect of additions or deductions upon the regular hourly rate of pay, see Interpretative Bulletin No. 3 [1941 WH Man. 127]. For the basis on which deductions or additions for board, lodging, or other facilities may be made and their cost to the employer determined, attention is called to Regulations Part 531, "Regulations Determining the Reasonable Cost of Board, Lodging, and Other Facilities" [1941 WH Man. 177].

If the additions to or deductions from wages paid (1) so affect the total cash wages due in any workweek (even though the employee actually is paid semimonthly) as to result in the employee receiving less in cash than the minimum hourly wage provided in Section 6 or in an applicable wage order, or (2) if the employee works in excess of 40 hours a week and (a) any additions to the wages paid are a part of that employee's wages, or (b) any deductions made are claimed as allowable deductions under Section 3 (m) of the Act, the employer shall then maintain records showing those additions to or deductions from wages paid on a workweek basis. (For legal deductions not claimed under Section 3 (m) and which need not be maintained on a workweek basis, see Paragraphs 15 through 17 of Interpretative Bulletin No. 3 Rev. October 1940.)

Every employer making additions or deductions shall also maintain in individual employee accounts a record of those types of items, and their separate credited or debited amounts, which compose the additions to or deductions from wages paid as well as specifying dates involved. For example:

6/5—coal, ½ ton \$4.00
6/9—groceries 4.48
6/12—meat 1.20
6/16-6/22—house rent (wk.) 3.50
6/16-6/22—board and lodging (wk.) 6.00

For the period these and other records pertaining to debits and credits shall be preserved, see section 516.15 (c).

SEC. 516.3—EMPLOYEES UNDER CERTAIN UNION AGREEMENTS WHO ARE TO BE PAID FOR OVERTIME OVER 12 HOURS A DAY OR 56 HOURS A WEEK AS PROVIDED IN SECTION 7(b)(1) OR 7(b)(2)

(a) *Items Required.* Every employer of employees who are employed:

1. In pursuance of an agreement, made as a result of collective bargaining by representatives of employees certified as bona fide by the National Labor Relations Board, which provides that no employee shall be employed more than one thousand hours during any period of twenty-six consecutive weeks, or

2. On an annual basis in pursuance of an agreement, made as a result of

collective bargaining by representatives of employees certified as bona fide by the National Labor Relations Board, which provides that the employee shall not be employed more than two thousand hours during any period of 52 consecutive weeks shall maintain and preserve² payroll or other records containing the following information and data on each and every employee to whom Section 6 (minimum hourly wages) of the Fair Labor Standards Act applies and who, as a result of such agreement or amendment thereto, is employed in accordance with Section 7(b)(1) or 7(b)(2) of the Act (overtime excess compensation for employment over 12 hours a day or 56 hours a week):³

(1) Name in full,⁴

(2) Home address, and (b) if such is used in place of name on any time, work, or payroll records)

(3) Date of birth if under 19,

(4) Occupation in which employed,

(5) Time of day and name of the day on which the employee's workweek begins,⁵

(6) (i) Regular hourly rate of pay,⁶ and (ii) Basis on which wages are paid,⁷

(7) Hours worked each workday,⁸ and total hours worked each workweek,

(8) Total daily or weekly straight-time earnings or wages,⁹

(9) Daily or weekly overtime excess compensation,¹⁰

(10) Total additions to or deductions from wages paid each pay period,¹¹

(11) Total wages paid each pay period,

(12) Date of payment and the pay period covered by payment.

(b) *Submission of Copy of Agreement to Washington.* The employer shall also report and file with the Administrator at Washington, D. C. within 30 days after such collective bargaining agreement has been made, a copy of each such collective bargaining agreement. Likewise, a copy of each amendment or addition thereto shall be reported and filed with the Administrator at Washington, D. C. within thirty days after such amendment or addition has been agreed upon.

(c) *Record of Persons and Periods Employed Under Agreements.* Every employer shall also make, keep, and preserve a record, either separately or as a part of the payroll:

(1) Listing each and every employee employed pursuant to each such collective bargaining

agreement and each amendment and addition thereto.

(2) Indicating the period or periods during which the employee, pursuant to an agreement, has been or is employed for either, (a) not more than 1,000 hours during any period of 26 consecutive weeks, or (b) on an annual basis and for not more than 2,000 hours during any period of 52 consecutive weeks, and

(3) Showing the total hours worked during any period of 26 consecutive weeks, if employed in accordance with Section 7(b)(1), or during each period of 52 consecutive weeks, if employed in accordance with Section 7(b)(2).

1. For an interpretation of these two sections of the Act, see Interpretative Bulletin No. 8, *Collective Bargaining Agreements Under Section 7(b)(1) and Section 7(b)(2) of the Fair Labor Standards Act of 1938* [1941 WH Man. 341].

2. For the period records must be preserved, see sections 516.14 and 516.15.

3. For additional requirements on certain types of employees covered by more than one minimum hourly wage set by one or more Wage Orders, see section 516.8.

4. For additional requirements on Learners, Apprentices, Messengers, and Handicapped Workers Under Special Certificates, see section 516.9.

5. This shall be the same name as that used for Social Security record purposes.

6. If the employee is a part of a workforce or employed in or by an establishment all of whose workers have a workweek beginning at the same time on the same day, a single notation of the time of the day and beginning day of the workweek for the whole workforce or establishment will suffice. If, however, any employee or group of employees has a workweek beginning and ending at a different time, a separate notation shall then be kept for that employee or group of employees.

7. This item is only required to be entered in the records for any week when overtime is worked and overtime excess compensation is due under either Section 7 (b) (1) or 7 (b) (2) of the Act. When required, it shall be shown as the hourly rate of any employee whose total straight-time earnings or wages are derived from one fixed hourly rate throughout the workweek, or the average hourly earnings, as determined in accordance with Paragraph 7 of Interpretative Bulletin No. 4 [1941 WH Man. 127], for any employee employed on any other basis.

8. This may be shown as "50c hr.", "\$3.00 a day"; "\$3.20, 8 hr. day"; "\$15.00 wk."; "\$15.00, 40 hr. wk."; "\$15.00 mo."; "piece rates"; "piece rates and bonus."

9. A "workday" with respect to any employee shall be any consecutive 24 hours.

10. That is: The excess compensation for overtime worked which amount is over and above all straight-time earnings or wages also earned during overtime worked. For the basis to be used in determining overtime payments under the Fair Labor Standards Act, see Interpretative Bulletin No. 3 [1941 WH Man. 127].

11. Every employer making additions or deductions shall also maintain in individual employee accounts a record of those types of items, and their separate credited or debited amounts, which compose the additions to or deductions from wages paid as well as specifying dates involved. For example:

6/5—coal, ½ ton \$4.00
6/9—groceries 4.48
6/12—meat 1.20
6/16-6/22—house rent (wk.) 3.50
6/16-6/22—board and lodging (wk.) 6.00

For the period these and other records pertaining to debits and credits shall be preserved, see section 516.15 (c).

SFC. 516.4—EMPLOYEES SUBJECT TO MINIMUM WAGE (SECTION 6) AND OVERTIME PROVISIONS COVERING "SEASONAL INDUSTRIES" AS PROVIDED IN SECTION 7(b)(3)

(a) *Items Required.* Every Employer shall maintain and preserve² payroll or other records containing the following information and data on each and every employee to whom Section 6 and Section 7(b)(3) of the Fair Labor Standards Act apply:³

(1) Name in full,⁴

(2) Home address, and (b) if such is used in place of name on any time, work, or payroll records)

(3) Date of birth if under 19,

(4) Occupation in which employed,

(5) Time of day and name of the day on which the employee's workweek begins,⁵

(6) (i) Regular hourly rate of pay,⁶ and (ii) Basis on which wages are paid,⁷

(7) Hours worked each workday,⁸ and total hours worked each workweek,

(8) Total daily or weekly straight-time earnings or wages,⁹

(9) Daily or weekly overtime excess compensation,¹⁰

(10) Total additions to or deductions from wages paid each pay period,¹¹

(11) Total wages paid each pay period,

(12) Date of payment and the pay period covered by payment.

(b) *Submission of Copy of Agreement to Washington.* The employer shall also report and file with the Administrator at Washington, D. C. within 30 days after such collective bargaining agreement has been made, a copy of each such collective bargaining agreement. Likewise, a copy of each amendment or addition thereto shall be reported and filed with the Administrator at Washington, D. C. within thirty days after such amendment or addition has been agreed upon.

(c) *Record of Persons and Periods Employed Under Agreements.* Every employer shall also make, keep, and preserve a record, either separately or as a part of the payroll:

(1) Listing each and every employee employed pursuant to each such collective bargaining

agreement and each amendment and addition thereto.

(2) Indicating the period or periods during which the employee, pursuant to an agreement, has been or is employed for either, (a) not more than 1,000 hours during any period of 26 consecutive weeks, or (b) on an annual basis and for not more than 2,000 hours during any period of 52 consecutive weeks, and

(3) Showing the total hours worked during any period of 26 consecutive weeks, if employed in accordance with Section 7(b)(1), or during each period of 52 consecutive weeks, if employed in accordance with Section 7(b)(2).

1. For an interpretation of these two sections of the Act, see Interpretative Bulletin No. 8, *Collective Bargaining Agreements Under Section 7(b)(1) and Section 7(b)(2) of the Fair Labor Standards Act of 1938* [1941 WH Man. 341].

2. For the period records must be preserved, see sections 516.14 and 516.15.

3. For additional requirements on certain types of employees covered by more than one minimum hourly wage set by one or more Wage Orders, see section 516.8.

4. For additional requirements on Learners, Apprentices, Messengers, and Handicapped Workers Under Special Certificates, see section 516.9.

5. This shall be the same name as that used for Social Security record purposes.

6. If the employee is a part of a workforce or employed in or by an establishment all of whose workers have a workweek beginning at the same time on the same day, a single notation of the time of the day and beginning day of the workweek for the whole workforce or establishment will suffice. If, however, any employee or group of employees has a workweek beginning and ending at a different time, a separate notation shall then be kept for that employee or group of employees.

7. This item is only required to be entered in the records for any week when overtime is worked and overtime excess compensation is due under either Section 7 (b) (1) or 7 (b) (2) of the Act. When required, it shall be shown as the hourly rate of any employee whose total straight-time earnings or wages are derived from one fixed hourly rate throughout the workweek, or the average hourly earnings, as determined in accordance with Paragraph 7 of Interpretative Bulletin No. 4 [1941 WH Man. 127], for any employee employed on any other basis.

Part 531, "Regulations, Determining the Reasonable Cost of Board, Lodging, and Other Facilities" [1941 WH Man. 177].

If the additions to or deductions from wages paid (1) so affect the total cash wages due in any workweek (even though the employee actually is paid semimonthly) as to result in the employee receiving less in cash than the minimum hourly wage provided in Section 6 or in an applicable wage order, or (2) if the employee works in excess of 40 hours a day or 56 hours a week and (a) any additions to the wages paid are a part of that employee's wages, or (b) any deductions made are claimed as allowable deductions under Section 3 (m) of the Act, the employer shall then maintain records showing those additions to or deductions from wages paid on a workweek basis. (For legal deductions not claimed under Section 3 (m) and which need not be maintained on a workweek basis, see Paragraphs 15 through 17 of Interpretative Bulletin No. 3 Rev. October 1940.)

Every employer making additions or deductions shall also maintain in individual employee accounts a record of those types of items, and their separate credited or debited amounts, which compose the additions to or deductions from wages paid as well as specifying dates involved. For example:

6/5—coal, ½ ton \$4.00
6/9—groceries 4.48
6/12—meat 1.20
6/16-6/22—house rent (wk.) 3.50
6/16-6/22—board and lodging (wk.) 6.00

For the period these and other records pertaining to debits and credits shall be preserved, see section 516.15 (c).

SFC. 516.4—EMPLOYEES SUBJECT TO MINIMUM WAGE (SECTION 6) AND OVERTIME PROVISIONS COVERING "SEASONAL INDUSTRIES" AS PROVIDED IN SECTION 7(b)(3)

(a) *Items Required.* Every Employer shall maintain and preserve² payroll or other records containing the following information and data on each and every employee to whom Section 6 and Section 7(b)(3) of the Fair Labor Standards Act apply:³

(1) Name in full,⁴

(2) Home address, and (b) if such is used in place of name on any time, work, or payroll records)

(3) Date of birth if under 19,

(4) Occupation in which employed,

(5) Time of day and name of the day on which the employee's workweek begins,⁵

(6) (i) Regular hourly rate of pay,⁶ and (ii) Basis on which wages are paid,⁷

(7) Hours worked each workday,⁸ and total hours worked each workweek,

(8) Total daily or weekly straight-time earnings or wages,⁹

(9) Daily or weekly overtime excess compensation,¹⁰

(10) Total additions to or deductions from wages paid each pay period,¹¹

(11) Total wages paid each pay period,

(12) Date of payment and the pay period covered by payment.

(b) *Submission of Copy of Agreement to Washington.* The employer shall also report and file with the Administrator at Washington, D. C. within 30 days after such collective bargaining agreement has been made, a copy of each such collective bargaining agreement. Likewise, a copy of each amendment or addition thereto shall be reported and filed with the Administrator at Washington, D. C. within thirty days after such amendment or addition has been agreed upon.

(c) *Record of Persons and Periods Employed Under Agreements.* Every employer shall also make, keep, and preserve a record, either separately or as a part of the payroll:

(1) Listing each and every employee employed pursuant to each such collective bargaining

agreement and each amendment and addition thereto.

(2) Indicating the period or periods during which the employee, pursuant to an agreement, has been or is employed for either, (a) not more than 1,000 hours during any period of 26 consecutive weeks, or (b) on an annual basis and for not more than 2,000 hours during any period of 52 consecutive weeks, and

(3) Showing the total hours worked during any period of 26 consecutive weeks, if employed in accordance with Section 7(b)(1), or during each period of 52 consecutive weeks, if employed in accordance with Section 7(b)(2).

1. For an interpretation of these two sections of the Act, see Interpretative Bulletin No. 8, *Collective Bargaining Agreements Under Section 7(b)(1) and Section 7(b)(2) of the Fair Labor Standards Act of 1938* [1941 WH Man. 341].

2. For the period records must be preserved, see sections 516.14 and 516.15.

3. For additional requirements on certain types of employees covered by more than one minimum hourly wage set by one or more Wage Orders, see section 516.8.

4. For additional requirements on Learners, Apprentices, Messengers, and Handicapped Workers Under Special Certificates, see section 516.9.

5. This shall be the same name as that used for Social Security record purposes.

6. If the employee is a part of a workforce or employed in or by an establishment all of whose workers have a workweek beginning at the same time on the same day, a single notation of the time of the day and beginning day of the workweek for the whole workforce or establishment will suffice. If, however, any employee or group of employees has a workweek beginning and ending at a different time, a separate notation shall then be kept for that employee or group of employees.

7. This item is only required to be entered in the records for any week when overtime is worked and overtime excess compensation is due under either Section 7 (b) (1) or 7 (b) (2) of the Act. When required, it shall be shown as the hourly rate of any employee whose total straight-time earnings or wages are derived from one fixed hourly rate throughout the workweek, or the average hourly earnings, as determined in accordance with Paragraph 7 of Interpretative Bulletin No. 4 [1941 WH Man. 127], for any employee employed on any other basis.

from wages paid each pay period,¹¹

(11) Total wages paid each period,

(12) Date of payment and the pay period covered by payment.

(b) *Establishment Operation Records.* Every employer shall also note in his records the beginning and ending of each workweek during which the establishment operates under the 14 workweek exemption provided in Section 7(b)(3).

(c) *Posting of Notice of Weeks Taken Under the 14 Workweek Exemption.* (1) In addition every employer shall prepare a legible typewritten or handwritten (in ink) Notice reading:

"Notice—Overtime Payments: This establishment has taken the workweek (or workweeks) in this pay period as a part of the 14 workweeks permitted under Section 7(b)(3) when overtime, at a rate of not less than time and one-half the regular hourly rate, need only be paid for any hours worked over 12 hours a day and 56 hours a week.

"This week (or these weeks) in this pay period completes the week of the permissible 14 workweeks.

Date..... Signed....."

(2) On the date when employees are paid off for any pay period involving a week or weeks during which the establishment operates under the 14 workweek partial overtime exemption (from Section 7(a)) provided in Section 7(b)(3), the employer shall prominently post that Notice beside the pay window or the person paying off the employees during all the time employees are being paid. Before posting the Notice the employer shall fill in the blank space in the second paragraph of the Notice with the number of weeks which the establishment has then completed of the 14 permissible workweeks.

For industries found to be "of a seasonal nature" see Part 525, *Regulations Applicable to Industries of a Seasonal Nature*.

2. For the period records must be preserved, see sections 516.14 and 516.15.

3. For additional requirements on certain types of employees covered by more than one minimum hourly wage set by one or more Wage Orders, see section 516.8.

4. For additional requirements on Learners, Apprentices, Messengers, and Handicapped Workers Under Special Certificates, see section 516.9.

5. This shall be the same name as that used for Social Security record purposes.

6. If the employee is a part of a workforce or employed in or by an establishment all of whose workers have a workweek beginning at the same time on the same day, a single notation of the time of the day and beginning day of the workweek for the whole workforce or establishment will suffice. If, however, any employee or group of employees has a workweek beginning and ending at a different time, a separate notation shall then be kept for that employee or group of employees.

7. This item is only required to be entered in the records for any week when overtime is worked and overtime excess compensation is due under either Section 7 (b) (1) or 7 (b) (2) of the Act. When required, it shall be shown as the hourly rate of any employee whose total straight-time earnings or wages are derived from one fixed hourly rate throughout the workweek, or the average hourly earnings, as determined in accordance with Paragraph 7 of Interpretative Bulletin No. 4 [1941 WH Man. 127], for any employee employed on any other basis.

8. This may be shown as "50c hr.", "\$3.00 a day"; "\$3.20, 8 hr. day"; "\$15.00 wk."; "\$15.00, 40 hr. wk."; "\$15.00 mo."; "piece rates"; "piece rates and bonus."

9. A "workday" with respect to any employee shall be any consecutive 24 hours.

10. That is: The excess compensation for overtime worked which amount is over and above all straight-time earnings or wages also earned during overtime worked. For the basis to be used in determining overtime payments under the Fair Labor Standards Act, see Interpretative Bulletin No. 3 [1941 WH Man. 127].

11. Every employer making additions or deductions shall also maintain in individual employee accounts a record of those types of items, and their separate credited or debited amounts, which compose the additions to or deductions from wages paid as well as specifying dates involved. For example:

6/5—coal, ½ ton \$4.00
6/9—groceries 4.48
6/12—meat 1.20
6/16-6/22—house rent (wk.) 3.50
6/16-6/22—board and lodging (wk.) 6.00

For the period these and other records pertaining to debits and credits shall be preserved, see section 516.15 (c).

SEC. 516.5—EMPLOYEES OF EMPLOYERS OPERATING UNDER THE 14 WORKWEEK TOTAL EXEMPTION FROM SECTION 7(a) PROVIDED BY SECTION 7(c)

(a) *Items Required.* Every employer operating under the complete exemption from Section 7(a) for 14 workweeks of the calendar year as provided in Section 7(c) of the Fair

worked and overtime excess compensation is due under an applicable part of Section 7 of the Act. When required it shall be shown as the hourly rate of any employee whose total straight-time earnings or wages are derived from one fixed hourly rate throughout the workweek, or the average hourly earnings, as determined in accordance with Paragraph 7 of Interpretative Bulletin No. 4 [1941 WH Man. 127], for any employee employed on any other basis.

7 This may be shown as "50c hr.", "\$3.00 a day"; "\$3.20, 8 hr. day"; "\$15.00 wk."; "\$15.00, 40 hr. wk."; "\$15.00 mo."; "piece rates"; "piece rates and bonus."

8 A "workday" with respect to any employee shall be any consecutive 24 hours.

9 That is: The excess compensation for overtime worked which amount is over and above all straight-time earnings or wages also earned during overtime worked. For the basis to be used in determining overtime payments under the Fair Labor Standards Act, see Interpretative Bulletin No. 3 [1941 WH Man. 127].

10 That is: The excess compensation for overtime worked which amount is over and above all straight-time earnings or wages also earned during overtime worked. For the basis to be used in determining overtime payments under the Fair Labor Standards Act, see Interpretative Bulletin No. 3 [1941 WH Man. 127].

11 As to the effect of additions or deductions upon the regular hourly rate of pay, see Interpretative Bulletin No. 3 [1941 WH Man. 127]. For the basis on which deductions or additions for board, lodging, or other facilities may be made and their cost to the employer determined, attention is called to Regulations Part 531, "Regulations, Determining the Reasonable Cost of Board, Lodging, and Other Facilities" [1941 WH Man. 177].

If the additions to or deductions from wages paid (1) so affect the total cash wages due in any workweek (even though the employee actually is paid semimonthly) as to result in the employee receiving less in cash than the minimum hourly wage provided in Section 6 or in an applicable wage order, or (2) if the employee works in excess of 40 hours a week during any period the 14 workweek partial overtime exemption is not applicable or in excess of 12 hours a day or 56 hours a week during any period the 14 workweek partial overtime exemption is in effect and (a) any additions to the wages paid are a part of that employee's wages, or (b) any deductions made are claimed as allowable deductions under Section 3 (m) of the Act, the employer shall then maintain records showing those additions to or deductions from wages paid on a workweek basis. (For legal deductions not claimed under Section 3 (m) and which need not be maintained on a workweek basis, see Paragraphs 15 through 17 of Interpretative Bulletin No. 3 Rev. October 1940.)

Every employer making additions or deductions shall also maintain in individual employee accounts a record of those types of items, and their separate credited or debited amounts, which compose the additions to or deductions from wages paid as well as specifying dates involved. For example:

6/5—coal, ½ ton \$4.00
6/9—groceries 4.48
6/12—meat 1.20
6/16-6/22—house rent (wk.) 3.50
6/16-6/22—board and lodging (wk.) 6.00

For the period these and other records pertaining to debits and credits shall be preserved, see section 516.15 (c).

SEC. 516.5—EMPLOYEES OF EMPLOYERS OPERATING UNDER THE 14 WORKWEEK TOTAL EXEMPTION FROM SECTION 7(a) PROVIDED BY SECTION 7(c)

(a) *Items Required.* Every employer operating under the complete exemption from Section 7(a) for 14 workweeks of the calendar year as provided in Section 7(c) of the Fair

worked and overtime excess compensation is due under an applicable part of Section 7 of the Act. When required it shall be shown as the hourly rate of any employee whose total straight-time earnings or wages are derived from one fixed hourly rate throughout the workweek, or the average hourly earnings, as determined in accordance with Paragraph 7 of Interpretative Bulletin No. 4 [1941 WH Man. 127], for any employee employed on any other basis.

Labor Standards Act¹ and under Section 7(a) for the remainder of the calendar year shall maintain and preserve² payroll or other records containing the following information and data on each and every employee to whom the provisions of Sections 6 and 7 of the Fair Labor Standards Act apply:³

- (1) Name in full,⁴
(And on the same record, the employee's identifying symbol or number if such is used in place of name on any time, work, or payroll records)
 - (2) Home address,
 - (3) Date of birth if under 19,
 - (4) Occupation in which employed,
 - (5) Time of day and name of the day on which the employee's workweek begins,⁵
 - (6) (i) Regular hourly rate of pay,⁶ and (ii) Basis on which wages are paid,⁷
 - (7) Hours worked each workday⁸ and total hours worked each workweek,
 - (8) Total daily or weekly straight-time earnings or wages,⁹
 - (9) Total weekly overtime excess compensation for the weeks to which Section 7(a) is applicable,¹⁰
 - (10) Additions to or deductions from wages paid each pay period,¹¹
 - (11) Total wages paid each pay period,
 - (12) Date of payment and pay period covered by payment.
- (b) **Establishment Operation Record.** Every employer shall also note in his records the beginning and ending of each workweek during which the establishment operates under the 14 workweek exemption provided in Section 7(c).
- (c) **Posting of Notice of Weeks Taken Under 14 Workweek Exemption.**
- (1) In addition, every employer shall prepare a legible typewritten or handwritten (in ink) notice reading:
- "Notice—Overtime Payments:
- "This establishment has taken the workweek (or workweeks) in this pay period as a part of the 14 workweeks permitted under Section 7(c) during which overtime excess compensation, as provided in Section 7(a), is not due for overtime worked.
- "This week (or these weeks) in this pay period completes the week of the permissible 14 workweeks.
- Date..... Signed....."
- (2) On the date when employees are paid off for any pay period involving a week or weeks during which the

establishment operates under the 14 workweek total overtime exemption provided in Section 7(c), the employer shall prominently post that Notice beside the pay window or the person paying off the employees during all the time employees are being paid. Before posting the notice the employer shall fill in the blank space in the second paragraph of the notice with the number of weeks which the establishment has then completed of the 14 permissible workweeks.

1 This section relates to the data and information required to be kept by employers in their records on employees to whom is applicable that part of Section 7(c) of the Act which reads:

"In the case of an employer engaged in the first processing of, or in canning or packing, perishable or seasonal fresh fruits or vegetables, or in the first processing, within the area of production (as defined by the Administrator), or any agricultural or horticultural commodity during seasonal operation or in handling, slaughtering, or dressing poultry or livestock, the provisions of subsection 7(a), during a period or periods of not more than fourteen workweeks in the aggregate in any calendar year, shall not apply to his employees in any place of employment where he is so engaged."

For the Administrator's definition of the "area of production," see Part 536, Regulations Defining the term "Area of Production" as used in Section 7(c) and Section 13(a) of the Fair Labor Standards Act [1941 WH Man. 306].

2 For the period records must be preserved, see sections 516.14 and 516.15.

3 For additional requirements on certain types of employees covered by more than one minimum hourly wage set by one or more Wage Orders, see section 516.8.

4 For additional requirements on learners, apprentices, messengers, and handicapped workers under special certificates, see section 516.9.

5 This shall be the same name as that used for Social Security record purposes.

6 If the employee is a part of a workforce or employed in or by an establishment all of whose workers have a workweek beginning at the same time on the same day, a single notation of the time of the day and beginning day of the workweek for the whole workforce or establishment will suffice. If, however, any employee or group of employees has a workweek beginning and ending at a different time, a separate notation shall then be kept for that employee or group of employees.

7 This item is only required to be entered in the records for any week when overtime is worked and overtime excess compensation is due under Section 7(a). When required, it shall be shown as the hourly rate of any employee whose total straight-time earnings or wages are derived from one fixed hourly rate throughout the workweek, or the average hourly earnings, as determined in accordance with Paragraph 7 of Interpretative Bulletin No. 4 [1941 WH Man. 127], for any employee employed on any other basis.

8 A "workday" with respect to any employee shall be any consecutive 24 hours.

9 That is, the total earnings of wages due for hours worked during the workday or workweek, including all earnings or wages due during overtime worked, but exclusive of overtime excess compensation.

10 That is, the excess compensation for overtime worked which amount is over and above all straight-time earnings or wages also earned during overtime worked. For the basis to be used in determining overtime payments under the Fair Labor Standards Act, see Interpretative Bulletin No. 4 [1941 WH Man. 127].

11 As to the effect of additions or deductions upon the regular hourly rate of pay, see Interpretative Bulletin No. 3 [1941 WH Man. 127].

178]. For the basis on which deductions or additions for board, lodging, or other facilities may be made and their cost to the employer determined, attention is called to Regulations Part 531, "Regulations Determining the Reasonable Cost of Board, Lodging, and Other Facilities" [1941 WH Man. 797].

If the additions to or deductions from wages paid (1) to affect the total cash wages due in any workweek (even though the employee actually is paid semimonthly) as to result in the employee receiving less in cash than the minimum hourly wage provided in Section 6 or in an applicable Wage Order, or (2) if during any period the 14 workweek overtime exemption is not applicable the employee works in excess of 40 hours a week and (a) any additions to the wages paid are a part of that employee's wages, or (b) any deductions made are claimed as allowable deductions under Section 3(m) of the Act, the employer shall then maintain records showing those additions to or deductions from wages paid on a workweek basis. (For legal deductions not claimed under Section 3(m) and which need not be maintained on a workweek basis see Paragraphs 15 through 17 of Interpretative Bulletin No. 3 Rev. October 1940.)

Every employer making additions or deductions shall also maintain in individual employee accounts a record of those types of items, and their separate credited or debited amounts, which compose the additions to or deductions from wages paid as well as specifying dates involved. For example:

6/5—meal, 1/2 ton	\$1.00
6/9—groceries	4.43
6/12—meal	1.20
6/16-6/22—house rent (wk.)	3.50
6/16-6/22—board and lodging (wk.)	6.00

For the period these and other records pertaining to debits and credits shall be preserved, see section 516.15 (c).

SEC. 516.6—EMPLOYEES TOTALLY EXEMPT FROM OVERTIME PAYMENT PURSUANT TO PART OF SECTION 7(c) AND SECTIONS 13(b)(1) AND 13(b)(2)

(a) **Items Required.** Every employer shall maintain and preserve² payroll or other records containing the following information and data on each and every employee to whom Section 6 of the Fair Labor Standards Act applies but Section 7(a) or 7(b) does not apply:³

- (1) Name in full,⁴
(And on the same record the employee's identifying symbol or number if such is used in place of name on any time, work, or payroll records)
- (2) Home address,
- (3) Date of birth if under 19,
- (4) Occupation in which employed,
- (5) Time of day and name of the day on which the employee's workweek begins,⁵
- (6) Basis on which wages are paid,⁶
- (7) Hours worked each workday⁷ and total hours worked each workweek,
- (8) Total daily or weekly earnings or wages,⁸
- (9) Additions to or deductions from wages paid each pay period,⁹
- (10) Total earnings or wages paid each pay period,
- (11) Date of payment and pay period covered by payment.

1 This section relates to the record data

and information required to be kept by employers on employees to whom is applicable:

(1) That part of Section 7(c) reading: "In the case of an employer engaged in the first processing of, or in canning or packing, perishable or seasonal fresh fruits or vegetables, or in the first processing, within the area of production (as defined by the Administrator), or any agricultural or horticultural commodity during seasonal operation or in handling, slaughtering, or dressing poultry or livestock, the provisions of subsection 7(a), during a period or periods of not more than fourteen workweeks in the aggregate in any calendar year, shall not apply to his employees in any place of employment where he is so engaged."

(2) Section 12(b) (1) or 12(b) (2) of the Act.

(For an explanation of Section 12(b) (1), insofar as certain employees of minor enterprises are concerned, see Interpretative Bulletin No. 9 [4 VHR 127].)

2 For the period records must be preserved, see section 516.14 and 516.15.

3 For additional requirements on certain types of employees covered by more than one minimum hourly wage set by one or more Wage Orders, see section 516.8.

4 For additional requirements on learners, apprentices, messengers, and handicapped workers under special certificates, see section 516.9.

5 For additional requirements on employees doing work upon time or gratuities as a part of wages, see section 516.10.

6 This shall be the same name as that used for Social Security record purposes.

7 If the employee is a part of a workforce or employed in or by an establishment all of whose workers have a workweek beginning at the same time on the same day, a single notation of the time of the day and beginning day of the workweek for the whole workforce or establishment will suffice. If, however, any employee or group of employees has a workweek beginning and ending at a different time, a separate notation shall then be kept for that employee or group of employees.

8 This may be shown as "\$50 hr.," "\$300 a day," "\$23.20 8 hr. day," "\$12.00 wk.," "\$15.00, 40 hr. wk.," "\$150 mo.," "piece rates," "piece rates and bonus."

9 A "workday" with respect to any employee shall be any consecutive 24 hours.

10 That is, the total earnings or wages due for hours worked during the workday or workweek.

11 As to the effect of additions or deductions upon the regular hourly rate of pay, see Interpretative Bulletin No. 3 [1941 WH Man. 127]. For the basis on which deductions or additions for board, lodging, or other facilities may be made and their cost to the employer determined, attention is called to Regulations Part 531, "Regulations Determining the Reasonable Cost of Board, Lodging, and Other Facilities."

If the additions to or deductions from wages paid in any way so affect the total cash wages due in any workweek (even though actually paid semimonthly) as to result in the employee receiving less in cash than the minimum hourly wage provided in Section 6 or in an applicable wage order, the employer shall then maintain records showing those additions to or deductions from wages paid on a workweek basis. (For legal deductions not required on workweek basis, Paragraphs 15-17 of Interpretative Bulletin No. 3 Rev. October 1940.)

Every employer making additions or deductions shall also maintain in individual employee accounts a record of those types of items, and their separate credited or debited amounts, which compose the additions to or deductions from wages paid as well as specifying dates involved. For example:

6/8—meal, 1/2 ton	\$4.00
6/9—groceries	4.43
6/12—meal	1.20
6/16-6/22—house rent (wk.)	3.50
6/16-6/22—board and lodging (wk.)	6.00

For the period these and other records pertaining to debits and credits shall be preserved, see section 516.15.

SEC. 516.7—BONA FIDE EXECUTIVE, ADMINISTRATIVE, PROFESSIONAL, LOCAL RETAIL, OUTSIDE SALES EMPLOYEES AS REFERRED TO IN SECTION 13(a) (1)

(a) **Items Required.** Every employer shall maintain and preserve² payroll or other records containing the following information and data on each of those employees:

- (1) The minimum rate of pay required to be paid for each type of goods upon which each such employee has worked.

shall maintain and preserve² payroll or other records containing the following information and data on each and every employee in a bona fide executive, administrative, professional or local retailing capacity, or in the capacity of outside salesman as defined in Part 511, Regulations defining and delimiting the terms "Any Employee Employed in a Bona Fide Executive, Administrative, Professional, or Local Retailing Capacity or in the Capacity of Outside Salesman" [1941 WH Man. 424]:

- (1) Name in full,³
(And on the same record, the employee's identifying symbol or number if such is used in place of name on any time, work, or payroll records)
- (2) Home address,
- (3) Date of birth if under 19,
- (4) Occupation in which employed,
- (5) Time of day and name of the day on which the employee's workweek begins,⁴
- (6) Basis on which wages are paid,⁵
- (7) Total wages paid each pay period,
- (8) Date of payment and pay period covered by payment.

1 This section relates to the record data and information required to be kept by employers on employees to whom Section 13(a) (1) of the Act applies.

2 For the period records must be preserved, see section 516.14.

3 This shall be the same name as that used for Social Security record purposes.

4 If the employee is a part of a work force or employed in or by an establishment all of whose workers have a workweek beginning at the same time on the same day, a single notation of the time of the day and beginning day of the workweek for the whole work force or establishment will suffice. If, however, any employee or group of employees has a workweek beginning and ending at a different time, a separate notation shall then be kept for that employee or group of employees.

5 This may be shown as "\$200 mo.," "\$50 wk.," or "on fee."

SEC. 516.8—EMPLOYEES UNDER MORE THAN ONE MINIMUM HOURLY RATE FIXED BY WAGE ORDERS

(a) **Additional Items Required.** An employer of any employees, subject to different minimum wage rates of pay one or more of which has been established by a Wage Order, who elects to pay less than an amount arrived at by applying the highest applicable minimum rate for all hours worked in any workweek, shall, in addition to any employee information and data required to be kept on them by any previous applicable section of these Regulations, maintain and preserve payroll or other records containing the following information and data on each of those employees:

- (1) The minimum rate of pay required to be paid for each type of goods upon which each such employee has worked.

(2) The total hours or fractions thereof worked each workweek on work covered by each different applicable minimum rate of pay.¹

(3) Each type of goods and products upon which the employee has worked at a different applicable minimum rate of pay.

(4) The piece rate, if any, for each operation on each type of goods upon which the employee has worked at a different applicable minimum rate of pay and the number of pieces worked upon at such piece rates.

(5) The total week's piece-work earnings, if any, on each type of goods and products upon which the employee has worked at different minimum rates of pay.

(6) The lot number of each type of goods upon which the employee has worked.

(7) The total wages due the employee at straight-time for the hours worked on each type of goods and products to which is applicable a different minimum rate of pay, including any amounts earned in excess of the applicable minimum rate of pay.

(b) **Continuity of Such Records.** Every employer who keeps records in accordance with the foregoing provisions must keep such records continuously. If he ceases or fails to do so in any workweek he may not resume the keeping of such records in such detail for a period of at least two months after the cessation date and then only after written notice of such resumption has been given by him to the Wage and Hour Division.

(c) **Records of Workers Whose Work Cannot Be Segregated.** The foregoing provisions of Paragraphs (a) and (b) of section 516.8 shall not be construed to affect in any way the records to be kept, or compensation to be paid employees whose activities cannot be segregated (such as clerical and maintenance employees), and who are, therefore, not subject to different minimum rates of pay.

1 These hours worked shall include time from the commencement of work on such type of goods, until work is commenced on another type of goods, for which such employee must be paid at a different minimum rate of pay.

SEC. 516.9—LEARNERS, APPRENTICES, MESSENGERS, HANDICAPPED WORKERS UNDER SPECIAL CERTIFICATES AS PROVIDED IN SECTION 14

(a) **Items Required.** Every employer shall maintain and preserve payroll or other records containing the same information and data pertaining to learners, apprentices, messengers, and handicapped workers employed at sub-

minimum hourly rates under special certificates as he is required to have under any of the previous sections of these Regulations applicable to other employees in those occupations.

(b) *Segregation on Pay-Roll and use of Identifying Symbol.* In addition, every employer shall segregate on his pay roll or pay records the names and required information and date on those learners, apprentices, messengers, and handicapped workers employed under special certificates. A symbol or letter shall also be placed before each such name on the pay roll or pay records indicating that that person is a "learner," "apprentice," "messenger," or "handicapped worker," employed under a special certificate.²

¹ Regulations pertaining to such types of persons are:
Part 522, Regulations Applicable to the Employment of Learners and related Industry Learner Regulations [1941 WH Man. 360];
Part 521, Regulations Applicable to the Employment of Apprentices [1941 WH Man. 357];
Part 523, Regulations Applicable to the Employment of Messengers [1941 WH Man. 403];
Part 524, Regulations Applicable to the Employment of Handicapped Persons [1941 WH Man. 407].

² For the period each special certificate shall be preserved, see section 516.14.

SEC. 516.10—RED CAPS AND OTHER EMPLOYEES DEPENDENT ON TIPS AS PART OF WAGES

(a) *Items Required.* Supplementary to the provisions of any previous section of these Regulations pertaining to the records to be kept on such employees, every employer shall also maintain and preserve¹ payroll or other records containing the following additional information and data on each and every employee employed in any occupation in the performance of which the employee receives tips or gratuities from third persons and which tips or gratuities are accounted for or turned over by the employee to the employer:

(1) Actual total hours worked each workday in those occupations in the performance of which the employee receives tips or gratuities from third persons,

(2) Actual total hours worked each workday in any other occupation,

(3) Total daily or weekly straight-time earnings segregated according to:

(i) Time paid for under (1) above, and

(ii) Time paid for under (2) above,

(iii) Tips or gratuities received and accounted for or turned over by the employee to the employer.

¹ For the period records must be preserved, see sections 516.14 and 516.15.

SEC. 516.11—HOMEWORERS

Every employer who directly or indirectly distributes work to be performed by an industrial homemaker¹

shall maintain and preserve² pay roll or other records containing the following information and data on each and every industrial homemaker engaged on work distributed directly by the employer or indirectly in his interest, excepting those homeworkers to whom Part 545, Regulations Relating to Homeworkers in the Needlework Industries in Puerto Rico [1941 WH Man. 801], applies:

(a) Name in full,³

(And on the same record the employee's identifying symbol or number if such is used in place of name on any time, work, or pay-roll records.)

(b) Home address,

(c) Date of birth if under 19,

(d) With respect to each lot of work issued:

(1) Date and hour on which work is given out to worker, and amount of such work given out,

(2) Date and hour on which work is returned by worker, and amount of such work returned,

(3) Kind of articles worked on and operations performed,

(4) Piece rates paid,

(5) Hours worked on each lot of work returned,

(6) Wages paid for each lot of work returned,

(7) Deductions for Social Security taxes,

(8) Date of wage payment and pay period covered by payment,

(9) With respect to each week:

(1) Hours worked each week,

(2) Wages earned for each week at regular piece rates,

(3) Extra pay due each week for overtime worked,

(4) Total wages earned each week,

(5) Deductions for Social Security taxes,

(f) With respect to the agent, distributor, or contractor:

(1) Name and address of each agent, distributor, or contractor through whom homework is distributed and name and address of each homemaker to whom homework is distributed by each such agent, distributor, or contractor.

Homework Handbooks. In addition to the above information and data, a separate handbook (to be obtained by the employer from the Wage and Hour Division and supplied by him to each worker) shall be kept for each industrial homemaker employed in a home or outside a plant. The information required therein shall be entered by the employer or the person distributing homework on behalf of such employer each time work is given out to or received from an industrial homemaker. Except for the time necessary for the

making of entries by the employer, the handbook must remain in the possession of the industrial homemaker until such time as the Wage and Hour Division may request it. A separate record and a separate handbook shall be kept for each individual performing work in or about a home on any lot or amount of homework distributed.

¹ The term "industrial homemaker" means any person producing in or about a home, for an employer, goods from material furnished directly by or indirectly for such employer.

² For the period records must be preserved, see sections 516.14 and 516.15.

³ This shall be the same name as that used for Social Security record purposes.

SEC. 516.12—EMPLOYEES AFFECTED BY THE EXEMPTIONS PROVIDED IN SECTIONS 13(a) (2), (3), (4), (5), (6), (8), (9), (10), OR (11)

(a) *Items Required.* Every employer shall maintain and preserve¹ payroll or other records containing the following information and data on each and every employee covered by the Fair Labor Standards Act but to whom the employer is not compelled to pay at least the minimum hourly wages provided in Section 6 or an applicable Wage Order, or to pay overtime excess compensation as provided in Section 7 due to the applicability of Section 13 (a) (2), 13(a) (3), 13(a) (4), 13(a) (5), 13(a) (6), 13(a) (8), 13(a) (9), 13(a) (10), or 13(a) (11):

(1) Name in full,²

(2) Home address,

(3) Occupation in which employed,

(4) Date of birth if under 19,

(5) Place or places of employment.

¹ For the period records shall be preserved, see sections 516.14 and 516.15.

² For an explanation of this exemption, see Interpretative Bulletin No. 6, Retail and Service Establishments [4 WHR 315].

³ For an explanation of this exemption, see Interpretative Bulletin No. 11, Seamen Exemption [1941 WH Man. 287].

⁴ For an explanation of this exemption, see Interpretative Bulletin No. 12, Seafarers and Fishery Exemption [1941 WH Man. 293].

⁵ For an explanation of this exemption, see Interpretative Bulletin No. 14, Agriculture [1941 WH Man. 314].

⁶ For the Administrator's definition of the "area of production" see Part 536, Regulations Defining the term "area of production" as used in Section 7 (c) and in Section 13 (a) (10) of the Fair Labor Standards Act [1941 WH Man. 312].

⁷ This shall be the same as that used for Social Security record purposes.

SEC. 516.13—RECORDS IN THE CASE OF AN OVERLAP OF PREVIOUS SECTIONS

(a) *Duplicated Items.* Every employer having in his employ, employees who may be so affected by the various provisions and exemptions provided in the Fair Labor Standards Act as to bring into force more than one of the foregoing sections (516.2 through 516.12) shall maintain and preserve payroll or other records containing for all workweeks of employment covered by the Fair Labor Standards Act all

data and information, which are duplicated in those applicable sections.

(b) *Unduplicated Items.* Every employer referred to in (a) above shall also have contained in those payroll or other records, the additional unduplicated employee information and data and shall maintain and preserve such additional records as are provided in each of the applicable sections. The additional unduplicated employee information, data, and records to be maintained in any given workweek, however, need only be such items or records as are required by the section or sections applicable to such workweek of employment.

III.—Length of Time Records Shall Be Preserved

SEC. 516.14—RECORDS TO BE PRESERVED FOUR YEARS

(a) Each employer shall preserve for at least 4 years:

(1) *Payroll Records.* From the last date of entry, all those payroll or other records containing the employee information and data required under any of the applicable sections 516.2 through 516.13, and

(2) *Certificates, Union Agreements, and Notices.* From their last effective date, all those certificates, union agreements and amendments or additions thereto, and notices listed or named in these same applicable sections.

SEC. 516.15—RECORDS TO BE PRESERVED TWO YEARS

(a) *Supplementary Basic Records.* Each employer shall preserve for a period of at least 2 years:

(1) *Basic Employment and Earnings Records.* From the date of last entry, all basic time and earnings cards or sheets of the employer on which are entered the daily starting and stopping time of individual employees, or of separate work forces, or the individual employee's daily, weekly, or pay period amounts of work accomplished (for example, units produced) when those amounts determine in whole or in part the pay period earnings or wages of those employees.

(2) *Wage Rate Table.* From their last effective date, all tables or schedules of the employer which provide the piece rates or other rates used in computing straight-time earnings, wages or salary, or overtime excess compensation, and

(3) *Work Time Schedules.* From their last effective date, all schedules or tables of the employer which establish the hours and days of employment of individual employees or of separate work forces.

(b) *Order, Shipping, and Billing*

Records. Each employer shall also preserve for at least 2 years from the last date of entry the originals or true copies of any and all customer orders or invoices received, incoming or outgoing shipping or delivery records, as well as all bills of lading and all billings to customers (other than "cash") which the employer retains or makes in the course of his business or operations.

(c) *Records of Additions to or Deductions from Wages Paid.* Each employer who makes additions to or deductions from wages paid shall preserve for at least 2 year from the date of last entry:

(1) Those records of individual employee accounts referred to in the footnote under the item "Total additions to or deductions from wages paid each pay period" found in sections 516.2 through 516.13,

(2) All employee purchase orders, or assignments made by employees, all copies of addition or deduction statements furnished employees, and

(3) All records used by the employer in determining the original cost, operating and maintenance costs and depreciation and interest charges, if such costs and charges are involved in the additions to or deductions from wages paid.

IV.—Location and Inspection of Records

SEC. 516.16—PLACE FOR KEEPING RECORDS

(a) *Place of Records.* Each employer shall keep the records herein required safe and accessible at the place or places of employment, or at one or more established central record keeping offices where such records are customarily maintained. Where the records are maintained at a central record keeping office, other than in the place or places of employment, such records shall be made available within 72 hours following notice from the Administrator or his duly authorized and designated representative.

INSPECTION OF RECORDS

(b) *Inspection of Records.* All records shall be open at any time to inspection and transcription by the Administrator or his duly authorized and designated representative.

V.—Reports On Records

SEC. 516.17—COMPUTATIONS AND REPORTS

Each employer shall make such extension, recomputation, or transcription of his records and shall submit to the Wage and Hour Division such reports concerning persons employed

and the wages, hours, and other conditions and practices of employment set forth in his records as the Administrator or his duly authorized and designated representative may request in writing.

VI.—Granting of Exceptions

SEC. 516.18—PETITIONS FOR EXCEPTIONS

(a) *Submissions of Petitions for Relief.* Any employer or group of employers who, due to peculiar conditions under which he or they must operate, desires authority to maintain records in other manner than herein required, or to be relieved of preserving certain records for the period named in these Regulations, may submit a written petition to the Administrator setting forth the authority desired and the reasons therefor.

(b) *Action on Such Petitions.* If, on review of the petition and after the completion of any necessary investigation supplementary thereto, the Administrator shall find that the authority prayed for, if granted, will not hamper or interfere with the enforcement of the provisions of the Fair Labor Standards Act or any regulation or orders issued thereunder, he may then grant such authority but limited by such conditions as he may determine are requisite, and subject to possible subsequent revocation. The grant of authority hereunder, and all revocations of such authority shall be published in the Federal Register.

(c) *Compliance after Submission of Such Petitions.* No employer or group of employers is relieved of any obligation to comply with all the requirements of these Regulations applicable to him, or to them, as a result of the submission of a petition or through delay or failure of the Administrator to act on a petition received.

VII.—Revision of Regulations

SEC. 516.19—AMENDMENT OF REGULATIONS

(a) *Petitions for Revision of Regulations.* Any person wishing a revision of any of the terms of the foregoing Regulations on records to be kept by employers may submit in writing to the Administrator a petition setting forth the changes desired and the reasons for proposing them.

(b) *Action on Such Petitions.* If upon inspection of the petition the Administrator believes that reasonable grounds are set forth for amendment of the Regulations, the Administrator shall either schedule a hearing with due notice to interested parties, or make other provisions for affording interested parties an opportunity to present their views, both in support of and in opposition to the petition.

Granting of Exceptions

Text of instructions to regional offices of the Wage and Hour Division as to handling of petitions for exceptions from regulations on records to be kept under the Wage-Hour Law:

1. Regional Office should advise employers requesting information on the procedure to be followed in petitioning for relief from certain record-keeping and preservation provisions of the Record-Keeping Regulations, as provided in Section 516.18 thereof, that petitions, addressed to the Administrator:

a. Should state fully the peculiar conditions under which the employer must operate necessitating (1) the maintenance of records in other manner than as required by the Regulations, or (2) relief from preserving certain records for the period named in the Regulations, and

b. Any petition should be accompanied by sample copies of the records which the employer proposes to maintain or which the employer desires to be relieved of preserving.

2. In addition the employer should be informed that the Administrator will not grant the petition if violations of the wage, hour or provisions of the Act or Regulations other than the Record-Keeping Regulations are found, except where such violations have been satisfactorily settled and the employer gives every evidence of fully complying thereafter.

3. Furthermore, authority to maintain records in other manner may be granted only if (a) the employer proves by his records that he computes any straight-time wages or earnings and any overtime excess compensation due under Sections 6 and 7 of the Act on an individual workweek basis, even though the pay period covers more than one workweek, and (b) the records he proposes to maintain are kept in such detail as to re-establish those individual weekly items named in the Regulations by extension, recomputation or transcription when requested.

4. Also, relief from the necessity of preserving records as required in Section 516.14-15 will not be granted if those records are found necessary for determining any question of coverage, wage rates or wages actually paid. Only where the preservation of certain records are found unnecessary for determining or securing compliance with any provisions of the Act or Regulations, other than Record-Keeping Regulations, will such authority be granted.

Official Action Taken by the Wage and Hour Division

EXPLANATORY BULLETIN
Explanation of Part 516, Regulations on Records to Be Kept by Employers, as Amended Sept. 15, 1941 (4 WHR 492).

Issued September 1941, to accompany revised record-keeping regulations issued Sept. 15, 1941 (4 WHR 492).

I.—GENERAL REQUIREMENTS

Section 516.1

RECORDS

Section 516.1 states the general requirements on records which employers must keep and preserve in accordance with Section 11 (c) of the Fair Labor Standards Act and from which extensions, computations, transcriptions and reports are to be made by the employer when called for. Section 11 (c) by its very phrasing authorizes the Administrator to require "every employer subject to any provision of the Act or of any order issued under this Act" to make, keep, and preserve such records in regard to employment and to submit such reports on those records as he may find necessary or appropriate for enforcement of the Act. The determination of whether an employer is or is not under the necessity of keeping and preserving records and submitting reports as required in these Regulations depends upon (1) his coming within the definition of employer set forth in Section 3 (d) of the Act,¹ and (2) his being subject to any provision of the Act or of any order issued thereunder. Thus the Administrator is not limited in his record-keeping authority to the establishment of record-keeping requirements only for those employees covered by the minimum-wage and overtime provisions of the Act.²

As to the character or form of records:

¹ Section 3 (d) of the Act: "Employer" includes any person acting directly or indirectly in the interest of an employer in relation to an employee but shall not include the United States or any State or political subdivision of a State, or any labor organization (other than when acting as an employer) or any one acting in the capacity of officer or agent of such organization."

² It is true that not all records on each employee in every establishment may be inspected. Yet, the records on any one employee in any one establishment may be the very records which are subject to necessary inspection. The responsibility is therefore placed upon every employer in any way subject to the Act to maintain records on his employees as required by these Regulations.

ords: Section 516.1 states specifically that "No particular order or form of records is prescribed by these regulations." Consequently, the responsibility for making and keeping records which contain (that is, have within them) the information and data named in the various Sections 516.2 through 516.13 rests foursquarely upon the employer, without specifying or limiting the order or form in which his records are to be kept. Therefore, the criteria to be used in determining that the employer is or is not making and keeping records with the information and data required depends on whether those records as made and consistently kept establish the information or data required by any item listed or named, independently of that of any other information or data required by another item.

APPLICABILITY OF RECORD-KEEPING REGULATIONS OF STATE, MUNICIPAL AND OTHER FEDERAL AGENCIES TO EMPLOYERS ALSO COVERED BY THE FAIR LABOR STANDARDS ACT

In some instances there are differences in record-keeping requirements provided under state and municipal wage-and-hour acts, ordinances, or orders and those provided in the Record-Keeping Regulations issued under the Fair Labor Standards Act. These differences primarily arise from differences in the basic provisions of the acts, ordinances, or orders under which those agencies operate, such as, provision for the establishment of piece rates or minimum weekly wages; limiting daily or weekly hours of work; prohibiting the employment of women or minors in certain occupations or industries.³

Likewise, in some instances other federal agencies, such as the Bituminous Coal Commission, the Interstate Commerce Commission, the Bureau of Internal Revenue (social-security taxation) may require the keeping of certain records not required by these Regulations or the submission of separate reports to them.

Since there are these many differences between the minimum wage, maximum hour, and employment requirements provided in the Fair Labor Standards Act and those provided

³ Many States also require that employment records be kept at the place of employment and be held available for inspection at any time.

in other acts, ordinances, and orders, the Wage and Hour Division Record Keeping Regulations (Part 516) may vary in several important regards from those required by other agencies. Where this is true, the employer is not relieved of the requirements of those other agencies by keeping or maintaining records as herein required.

II.—EMPLOYEE INFORMATION AND DATA TO BE CONTAINED IN EMPLOYERS' RECORDS

Division II is divided into Sections (516.2 through 516.13) in accordance with various types of minimum wage, overtime payment, and other limitations provided in the Fair Labor Standards Act. Thereby any one employer will, in all but a few cases, find under any one section all substantive record keeping requirements applicable to any of his employees covered by specific parts of the Act or who are employed under certain conditions requiring different types of records. For the greater number of employers, those having employees covered at all times by Sections 6 and 7 (a), section 516.2 is the only section in which they need be interested as to information and data which is to be contained in their records.

This organization of Division II by types of coverage or employment is necessary due to the variations or exemptions from the wage and overtime provisions provided in the Act itself. In some instances, the variations or exemptions depend upon the occupations or work conditions of employees; in others, dependence is upon the industry in which engaged. Where exceptions or exemptions are claimed, proof of the nature of work done or of the conditions under which work is performed is required in order to establish the claimed partial or total exemption. Consequently, these factors require an employer to keep different records on those employees than he would have to keep if such exception or exemption were not claimed. The additional or differing record keeping requirements covering such employees are one means whereby the employer may establish the claim of employee partial or total exemption and also show compliance with the resulting appropriate wage and overtime requirements.

Granting of Exceptions

Text of instructions to regional offices of the Wage and Hour Division as to handling of petitions for exceptions from regulations on records to be kept under the Wage-Hour Law:

1. Regional Office should advise employers requesting information on the procedure to be followed in petitioning for relief from certain record-keeping and preservation provisions of the Record-Keeping Regulations, as provided in Section 516.18 thereof, that petitions, addressed to the Administrator:

a. Should state fully the peculiar conditions under which the employer must operate necessitating (1) the maintenance of records in other manner than as required by the Regulations, or (2) relief from preserving certain records for the period named in the Regulations, and

b. Any petition should be accompanied by sample copies of the records which the employer proposes to maintain or which the employer desires to be relieved of preserving.

2. In addition the employer should be informed that the Administrator will not grant the petition if violations of the wage, hour or provisions of the Act or Regulations other than the Record-Keeping Regulations are found, except where such violations have been satisfactorily settled and the employer gives every evidence of fully complying thereafter.

3. Furthermore, authority to maintain records in other manner may be granted only if (a) the employer proves by his records that he computes any straight-time wages or earnings and any overtime excess compensation due under Sections 6 and 7 of the Act on an individual workweek basis, even though the pay period covers more than one workweek, and (b) the records he proposes to maintain are kept in such detail as to re-establish those individual weekly items named in the Regulations by extension, recomputation or transcription when requested.

4. Also, relief from the necessity of preserving records as required in Section 516.14-15 will not be granted if those records are found necessary for determining any question of coverage, wage rates or wages actually paid. Only where the preservation of certain records are found unnecessary for determining or securing compliance with any provisions of the Act or Regulations, other than Record-Keeping Regulations, will such authority be granted.

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I.—GENERAL REQUIREMENTS

Section 516.1

RECORDS

Section 516.1 states the general requirements on records which employers must keep and preserve in accordance with Section 11 (c) of the Fair Labor Standards Act and from which extensions, computations, transcriptions and reports are to be made by the employer when called for. Section 11 (c) by its very phrasing authorizes the Administrator to require "every employer subject to any provision of the Act or of any order issued under this Act" to make, keep, and preserve such records in regard to employment and to submit such reports on those records as he may find necessary or appropriate for enforcement of the Act. The determination of whether an employer is or is not under the necessity of keeping and preserving records and submitting reports as required in these Regulations depends upon (1) his coming within the definition of employer set forth in Section 3 (d) of the Act,¹ and (2) his being subject to any provision of the Act or of any order issued thereunder. Thus the Administrator is not limited in his record-keeping authority to the establishment of record-keeping requirements only for those employees covered by the minimum-wage and overtime provisions of the Act.²

As to the character or form of records:

¹ Section 3 (d) of the Act: "Employer" includes any person acting directly or indirectly in the interest of an employer in relation to an employee but shall not include the United States or any State or political subdivision of a State, or any labor organization (other than when acting as an employer) or any one acting in the capacity of officer or agent of such organization."

² It is true that not all records on each employee in every establishment may be inspected. Yet, the records on any one employee in any one establishment may be the very records which are subject to necessary inspection. The responsibility is therefore placed upon every employer in any way subject to the Act to maintain records on his employees as required by these Regulations.

ords: Section 516.1 states specifically that "No particular order or form of records is prescribed by these regulations." Consequently, the responsibility for making and keeping records which contain (that is, have within them) the information and data named in the various Sections 516.2 through 516.13 rests foursquarely upon the employer, without specifying or limiting the order or form in which his records are to be kept. Therefore, the criteria to be used in determining that the employer is or is not making and keeping records with the information and data required depends on whether those records as made and consistently kept establish the information or data required by any item listed or named, independently of that of any other information or data required by another item.

APPLICABILITY OF RECORD-KEEPING REGULATIONS OF STATE, MUNICIPAL AND OTHER FEDERAL AGENCIES TO EMPLOYERS ALSO COVERED BY THE FAIR LABOR STANDARDS ACT

In some instances there are differences in record-keeping requirements provided under state and municipal wage-and-hour acts, ordinances, or orders and those provided in the Record-Keeping Regulations issued under the Fair Labor Standards Act. These differences primarily arise from differences in the basic provisions of the acts, ordinances, or orders under which those agencies operate, such as, provision for the establishment of piece rates or minimum weekly wages; limiting daily or weekly hours of work; prohibiting the employment of women or minors in certain occupations or industries.³

Likewise, in some instances other federal agencies, such as the Bituminous Coal Commission, the Interstate Commerce Commission, the Bureau of Internal Revenue (social-security taxation) may require the keeping of certain records not required by these Regulations or the submission of separate reports to them.

Since there are these many differences between the minimum wage, maximum hour, and employment requirements provided in the Fair Labor Standards Act and those provided

in other acts, ordinances, and orders, the Wage and Hour Division Record Keeping Regulations (Part 516) may vary in several important regards from those required by other agencies. Where this is true, the employer is not relieved of the requirements of those other agencies by keeping or maintaining records as herein required.

II.—EMPLOYEE INFORMATION AND DATA TO BE CONTAINED IN EMPLOYERS' RECORDS

Division II is divided into Sections (516.2 through 516.13) in accordance with various types of minimum wage, overtime payment, and other limitations provided in the Fair Labor Standards Act. Thereby any one employer will, in all but a few cases, find under any one section all substantive record keeping requirements applicable to any of his employees covered by specific parts of the Act or who are employed under certain conditions requiring different types of records. For the greater number of employers, those having employees covered at all times by Sections 6 and 7 (a), section 516.2 is the only section in which they need be interested as to information and data which is to be contained in their records.

This organization of Division II by types of coverage or employment is necessary due to the variations or exemptions from the wage and overtime provisions provided in the Act itself. In some instances, the variations or exemptions depend upon the occupations or work conditions of employees; in others, dependence is upon the industry in which engaged. Where exceptions or exemptions are claimed, proof of the nature of work done or of the conditions under which work is performed is required in order to establish the claimed partial or total exemption. Consequently, these factors require an employer to keep different records on those employees than he would have to keep if such exception or exemption were not claimed. The additional or differing record keeping requirements covering such employees are one means whereby the employer may establish the claim of employee partial or total exemption and also show compliance with the resulting appropriate wage and overtime require-

³ Many States also require that employment records be kept at the place of employment and be held available for inspection at any time.

ments of the Act, or Wage Order or Regulations issued under the Act.

There is no requirement that an employer keeps records as required under one of those sections in Division II, other than Section 516.2, even though employees may fall within one of those other categories if the employer does not avail himself of that applicable exemption or exception provided in the Act. Where an employer continues to employ those employees in accordance with Sections 6 and 7 (a) of the Act, notwithstanding a possible applicable exemption, Section 516.2 continues applicable as to the records to be kept on those employees.⁴ This, of course, also applies where an employer may have employees covered by a wage order or wage orders establishing two or more differing minimum hourly wage rates, and Section 516.8 may thereby become applicable as to the records to be kept. Where the employer continues to pay at least the highest applicable hourly minimum wage for all hours worked (even though part of that employee's time during the week may be on work to which a lower minimum hourly wage is applicable) that employer then need only keep records in accordance with Section 516.2.

Section 516.1 of these Regulations provides that no order or form of records is required. Sections 516.2 through 516.3 are subordinate to Section 516.1. These several sections, therefore, do not require the employer to keep the items named in any specified order. Neither is it required that they be kept in any specified form. The requirement is that the employer maintain records which contain the information and data named or listed. This permits the employer considerable latitude in the order, form, and content of his records.

Likewise, there is no requirement that all information and data be carried, item by item, on each payroll. Some employers carry on the payrolls all the information and data required. Still others carry on the payrolls total figures on hours worked, wages received, and deductions made for each employee. Individual employee personnel records, currently maintained, contain the details on name, employee symbol or number, age (if required), occupation and other related general information; while individual time or work cards or worksheet sheets show the detail of daily and weekly hours worked, salary, hourly rates, piece rates, or other rate

⁴ The Homework section, 516.11, however, is applicable to records on such workers under all circumstances. This is also true with respect to employees whose tips or gratuities the employer claims to be a part of wages.

basis and weekly straight-time earnings and overtime excess compensation. Still other records may furnish the detail on additions to or deductions from wages due. There is no requirement that all such information and detail shall be maintained on one payroll. The information and data, however, must be contained in some legible records preserved as provided in Sections 516.14 and 516.16.

SEMI-MONTHLY PAYROLLS AND BASIC WEEKLY RECORDS

Employers in many industries have pay periods of greater length than the workweek, as for example semi-monthly. To meet this problem of the semi-monthly pay period which does not conform to the workweek, those employers may keep supplementary records,⁵ not a part of the payroll, and in those basic records maintain the information and data which establish the daily or weekly items required by the Regulations.

If an employer maintains such additional basic records and has the data and information on weekly items required by these Regulations therein, he then is not under the obligation to carry those individual items also in the payroll or pay records. Basic records, however, must be legible and kept in such adequate detail and order as to justify or reconcile the totals shown in the payroll records covering the relevant pay period. Furthermore, where these basic records contain any of the employee information and data required by the Regulations and such information and data is not transferred to the payroll records, those basic records must then be prepared for four years as provided in Section 516.14. If such required information and data is transferred, then those records need only be preserved two years as provided in Section 516.15.

EXPLANATION OF ITEMS FREQUENTLY LISTED IN SECTIONS 516.2 THROUGH 516.3

a. Name in full, (and on the same record the employee's identifying symbol or number if such is used in place of name on any time, work or pay-roll records)

As stated in the footnote to this item in the Regulations, the name entered on the payroll or other records is to be the same as that used for Social Security purposes. In addition, because some employers use a number or symbol, in place of name on time cards or other records, it is also re-

⁵ Such additional employer records frequently are in the form of individual employee daily and weekly time and earning cards, individual employee ledger sheets or worksheet-workweek sheets listing each employee by name or symbol or number and furnishing therein the required information and data for each employee so listed.

quired that on the record containing the name of the employee, the employee's number or symbol shall also be entered. If an employer enters the name on all records there is then no requirement of also entering any symbol or number.

b. Home address

It is necessary for each employer to secure the home address of each of his employees. That address is then to be entered upon the payroll or other records containing the employee's name. As time passes, every employer should also check home addresses with reasonable frequency and make any necessary correction of addresses in the records.

c. Date of birth if under 19

The responsibility for not employing minors as prohibited by the Act rests upon the employer. Wherever there is any question of a person being a minor, the employer must make every effort to determine the actual age of the person and if 18 years of age or less, enter the date of birth in his records or hold, as a part of his records, any age certificate (as referred to in Section 5(1) of the Act,⁶ work certificate or other substantiating evidence of age.)

d. Occupation in which employed

The occupation of the employee is often the basis on which a partial or complete exemption is claimed from wage, hour, and other limitations provided in the Act. In other instances, it may determine a question of actual coverage. In still others, it may be necessary in order to determine the applicability of a minimum wage rate issued under a wage order. For these reasons, among others, the Regulations require the employer to list the employee's occupation.

The item of occupation need not be carried on every pay roll or on every time card or worksheet, providing the item is currently maintained on personnel or other employment

⁶ For the securing of certificates of age, as referred to in Section 5(1) of the Act, which relieves the employer of liability for the employment of minors under certain conditions, see U. S. Department of Labor, Children's Bureau, Child Labor Regulations No. 1 (and 1-J applying to Alaska 1941 WH Man. 556). For regulations on the employment of minors 14 and 15 years of age, see Child Labor Regulations No. 3 (1941 WH Man. 540). For designation of States for acceptance of State Certificates of Age, see Child Labor Regulations No. 22 (1941 WH Man. 534).

⁷ Some States and municipalities require a record of age to be kept for all persons less than 21 years old. Likewise, some State or municipal acts or orders prohibit the employment of minors in certain occupations or industries not prohibited by the Fair Labor Standards Act or the Child Labor Orders issued thereunder. Those limitations or prohibitions of States or municipalities continue applicable to minors employed under the Fair Labor Standards Act. This is in accordance with Section 13 of the Act which provides that "no provision of this Act relating to the employment of child labor shall justify non-compliance with any Federal or State law or municipal ordinance establishing a higher standard than the standard established under this Act."

records of the employee and such records are preserved as a part of the "pay roll and other records" referred to in Section 516.14. Or, if an employee is a member of a work force all of whom are in the same occupation, a notation of the occupation at the head of the payroll or workforce time or earnings record sheet, listing together the names or symbols or numbers of the employees in that occupation, is sufficient.

The occupational title may be of a general nature, as for instance, "stitcher," "day laborer," "stenographer," "doffer," "welder," "salesman," providing the title fully indicates the work done, as distinguished from work done by others not similarly employed. Any change in occupation would, of course, require an additional notation on the appropriate record containing the occupations of employees.

e. Time of day and name of the day on which the employee's workweek begins

The Wage and Hour Division has taken the position that the workweek is to be considered as the maximum work period which may be used in determining compliance with the minimum hourly wage provisions of the Act in any instance where the hourly rate of any employee is determined from piece-rate earnings, a weekly or monthly salary or two or more rates of pay.⁸ The hourly rate for all employees except those employed at one specified hourly rate throughout the week then depends on the total hours worked in any workweek divided into the total straight-time earnings, wages or salary of that workweek. It is necessary, therefore, for the employer to indicate in his payroll records the period covered by each employee's workweek.

This item does not require that the employer show the exact moment the employee actually begins work in the workweek or the moment he ceases work. The employer may select any time desirable to begin and end the employee's workweek, as for instance, midnight Saturday or high noon Wednesday. This may be done, even though the employee ceases work, in the first instance, at 1 p. m. Saturday and does not begin work the next week until 7:30 a. m. Monday; or even though the employee, in the second instance, works all day Wednesday, thereby throwing Wednesday morning's hours of employment into one workweek and the afternoon's employment into the next succeeding workweek. A workweek,

⁸ P-609, Feb. 6, 1930, Workweek Taken as Unit in Wage-Hour Calculation 1941 WH Man. 1381. The amount of overtime excess compensation due is also dependent upon the hours worked in a workweek (as well as in the workday when Section 7(b) is applicable).

however, must be established and it may not then be varied for purposes of evasion of either the minimum wage or overtime provisions of the Act.⁹

1. Regular hourly rate of pay

The employer is only required to enter "the regular hourly rate of pay" in his records for any week the employee has worked in excess of the maximum straight-time hours permissible under Section 7 of the Act.

The various formulas which are to be used in computing "the regular hourly rate of pay," in any instance where the employee is not in fact employed at one fixed hourly rate throughout the week are explained in Interpretative Bulletin No. 4 (1941 WH Man. 1271). As a general rule, the weekly straight-time earnings, or wages divided by the total weekly hours worked may be used in determining an employee's hourly rate of pay and thereby "the regular rate at which he is employed" as referred to in Section 7 of the Act.¹⁰

g. Basis on which wages are paid

Every employer is required to enter in the payroll or other employee records the wage, salary or other earning rate used in determining the employee's total straight-time earnings or wages for each pay period. Only where the employee is employed at a fixed, unvarying hourly rate throughout the workweek will this figure be the same as "the regular hourly rate of pay."

There is no requirement that the basis on which wages are paid shall be shown each week or in each payroll, providing that the employer maintains this datum on personnel or employment records which he keeps as a part of his regular records. When any change is made in the basis of payment, that change is also to be noted in the records, together with the effective date.

h. Hours worked each workday and total hours worked each workweek

In order to determine compliance with either or both the minimum wage (Section 6) and overtime (Section 7) (provisions) of the Act, it is necessary for the employer to compute the hours worked during the workweek (as well as the workday when Section 7 (b) is involved). The employer must, therefore, have records which establish the hours worked daily and the total hours worked weekly.¹¹

⁹ See Paragraph 3, Interpretative Bulletin No. 4 (1941 WH Man. 1271).

¹⁰ Also note footnote 14 relative item 1. "Total daily or weekly straight-time earnings or wages."

¹¹ Interpretative Bulletin No. 13 (1941 WH Man. 144) explains the position of the Division in regard to time considered as "hours worked."

Insofar as daily hours are concerned, a record of the actual time work started and the time work ceased for each daily work period is adequate.¹²

In the case of the workweek, the employer is required to maintain records which show the employee's total hours worked.¹³ This is necessary in determining either the average hourly rate of pay of any employee whose wages are not based on one fixed hourly rate or in verifying the total amount of straight-time wages due for any workweek when an employee is employed at one hourly rate.

1. Total daily or weekly straight-time earnings or wages

In order to determine compliance with the Act, it is necessary for the employer to maintain records which will establish either daily or weekly straight-time earnings. This can be done by showing straight-time earnings or wages by the day¹⁴ or by keeping the total earnings or wages for the individual work-week.

In the instance of the monthly salaried employee, the weekly salary rate—computed as explained in paragraph 10 of Interpretative Bulletin No. 4—need not be entered each week on the payroll or other pay period records when the salary received assured the employee an hourly rate in excess of the hourly minimum applicable under Section 6, providing that on the personnel, or other regular employee records of the em-

¹² This requirement is in accord with many State laws and municipal ordinances also requiring records of starting and stopping time.

¹³ In this regard Press Release R. 115, Business Office Time Records continues applicable to those employees having fixed daily and weekly hours of employment. This release reads in part: "If, in fact, a record is kept with respect to each employee employed on a weekly or monthly basis in an establishment or department thereof operating on a fixed office hour schedule indicating the exact schedule of hours per day and hours per week which that employee is normally expected to work and if, in fact, the payroll (or other) records maintained by the employer indicate for each worker or for each group of workers, that such scheduled hours were, in fact, adhered to, this would be in compliance with our Regulations. When hours in excess of those fixed by the schedule are worked, an employer must supplement this record by showing the exact number of hours worked each day and each week in which they are in excess of the fixed schedule." (Parenthetical phrase added.)

¹⁴ It is to be noted however that daily straight-time earnings cannot be totaled for a pay period of greater length than a workweek (that is seven consecutive days) in determining "The regular hourly rate of pay." Neither can total pay-period earnings or wages be so allocated among the workweeks in a pay period as to raise the regular hourly rate of pay in one week, when the actual rate for the workweek is lower than the minimum, or the expense of another workweek when the rate is above the minimum. Likewise, the total pay period earnings or wages cannot be so allocated among the workweeks in the pay period, as to lower "the regular hourly rate" during a week in which overtime occurred, thereby reducing the overtime excess compensation otherwise due, while crediting the difference to the prior or succeeding week, in which little or no overtime occurred. The individual workweek stands alone in determining "the regular hourly rate of pay."

ployer, the monthly salary is also shown as a weekly figure: for example, \$100 month (\$23.08¹⁵ week).¹⁶ Of course, where the total hours worked in any one workweek are great enough to bring the regular hourly rate for any workweek of a salaried employee below the hourly minimum, the employer is then under the necessity of increasing the weekly salary equivalent by such an amount as to assure the employee of at least the minimum hourly rate, provided in either Section 6 or under an applicable Wage Order for the total weekly hours worked. When this occurs the employer must then show in his pay roll or pay records the actual weekly wage due¹⁶ the employee for each week that that amount is in excess of the customary weekly salary rate.¹⁷

In summary, the total daily or weekly straight-time earnings or wages constitute all earnings or wages received on a basis of hourly rates, piece rates, commissions, weekly salary, or that part of the monthly salary represented by the specific workweek. In any instance where there must be supplementation of the straight-time earnings or wages in order to raise hourly rates to at least the minimum applicable under Section 6 or a Wage Order, this additional supplementation is a part of the "total daily or weekly straight-time earnings or wages."¹⁸

j. Total weekly overtime excess compensation

Here again, it is necessary for the employer to maintain records containing weekly data since Section 7 of the Fair Labor Standards Act provides that overtime excess compensation

shall be paid on the basis of the total weekly hours of employment (or daily and weekly when Section 7 (b) is involved). This does not permit averaging total hours of employment in a pay period over the weeks involved in that period. As a result, overtime excess compensation is to be computed on the basis of at least one-half the employee's "regular hourly rate of pay" for the relevant workweek multiplied by the number of total hours worked in excess of the weekly straight-time permissible hours.

In Interpretative Bulletin No. 4, Paragraph 43 [1941 WH Man. 135], the Wage and Hour Division has already stated that where workweeks are split by pay periods, the Wage and Hour Division will consider the employer to have complied with the overtime provisions of the Act "if he pays an amount in addition to the straight-time wage or salary equal to one-half the regular rate of pay for the number of overtime hours worked in each of the completed workweeks in the period." * * * Overtime compensation earned in a particular workweek must, however, be paid at the regular pay period in which such workweeks end."

In summary "The total weekly overtime excess compensation" is the additional compensation due the employee as extra pay for working in excess of 40 hours in any one workweek (or 12 hours a day and 56 hours a week where Section 7 (b) applies). This amount is over and above any straight-time earnings or wages also due during any overtime worked.

k. Total additions to or deductions from wages paid each pay period

In order to corroborate or justify the amounts shown as additions to or deductions from wages due employees, it is necessary for the employer to maintain records showing the basis for the credits or debits. This itemization can either be carried by the employer on the pay roll, on employee pay records or through maintenance of supporting records or accounts.

If the additions to or deductions from wages¹⁹ (1) do not result in the employee receiving weekly cash wages at a rate less than the minimum hourly rate provided in Section 6 of the Act or in an applicable Wage Order, and (2) if the employee does not work in excess of the maximum straight-time hours permitted under Section 7 of the Act, the total additions or deductions need only be carried on a pay period basis.

However, as stated in the Regula-

tions, "if the additions to or deductions from wages paid so affect the total cash wages due in any workweek (even though the employee actually is paid semimonthly) as to result in the employee receiving less in cash than the minimum hourly wage the employer shall then maintain records showing those additions to or deduction from wages paid on a workweek basis." Likewise, as stated in the Regulations, if an employee "works in excess of the legally permissible straight-time hours and (a) any additions to the wages paid are a part of that employee's wages, or (b) any deductions made are claimed as allowable deductions under Section 3(m) of the Act, the employer shall then maintain records showing those additions to or deductions from wages paid on a workweek basis."

It is recognized that, in some instances, it may be necessary to prorate the total amount of the addition or deduction made on a monthly or semimonthly or biweekly basis, among the workweeks ending within the pay period. This allocation must be made on an equitable basis²⁰ between the workweeks and so shown in the records.

Certain deductions, of course, may be made from the wages paid the employee without affecting the regular hourly rate of the employee. These are explained in Interpretative Bulletin No. 3, paragraphs 15, 16, and 17 [1941 WH Man. 182]. When such debits are made, the amounts and the reasons for them need only be shown for the pay period.²¹ No attempt need be made to allocate those items among the respective workweeks.

1. Total wage paid each pay period
This item shall include all straight-time earnings or wages due the employee during the pay period and total weekly overtime excess compensation due the employee for all workweeks ending in the period, plus any additions to or less any deductions from those total wages due.

m. Date of payment and pay period covered by payment

The date of payment shall be considered as the date on which the employee was paid in cash or the date on which the employee received his pay check. If the employee is a member of a work force, all of whom are paid on the same day, for a pay period common to all, then a single notation on the pay roll or pay records covering those employees stating the day of

²⁰ That is, the allocation may not be increased or decreased in order to effectuate an increase or decrease in a weekly regular hourly rate of pay of an employee for the purpose of evading the minimum wage or overtime provisions of the Act.

²¹ Note.—In some States deductions from wages may not be made which result in the employee earning less in cash than a specified hourly, daily, or weekly wage.

¹⁹ For types of additions or deductions which affect wages, see Interpretative Bulletin No. 3 [1941 WH Man. 175].

¹⁵ Fractions are carried to the nearest cent.
¹⁶ When overtime is worked, the hourly rate is then computed as described in paragraphs 11 and 12 of Interpretative Bulletin No. 4 [1941 WH Man. 129], from this weekly figure and entered as required under "Regular hourly rate of pay."

¹⁷ Thus an employer having an employee paid \$80 a month would show a weekly equivalent of \$19.05 a week (\$80 X 12 = \$720 year, \$720 ÷ 52 weeks = \$13.85 a week). If the employee regularly worked 20 hours a week, the employer would need only show the weekly equivalent after the regular salary on the pay roll or personnel record. If, however, the employee, for example, worked 38 hours during one week and the applicable minimum hourly wage was 40c an hour, there would then be an employee 38 X 40c or \$15.20 for that week's work. Accordingly, for that week the employer, under these Regulations, would show \$15.20 in his weekly basic records, as the wages due that employee for that workweek and at the next semimonthly pay period he would then pay the employee \$30 plus \$1.35 as total straight-time wages due.

¹⁸ It is also to be noted that any item of additional compensation considered a part of straight-time earnings or wages one week cannot be applied to overtime excess compensation in any subsequent workweek. Likewise, supplementation of earnings in one workweek in order to meet the minimum due cannot be charged against an employee's earnings in a subsequent workweek when the employee makes in excess of the minimum. Such methods are viewed by the Wage and Hour Division as illegal "kickback devices." See Release R. 670, "Kickback Devices" * * * Illegal [1941 WH Man. 395].

payment and the period covered by the payment for the whole work force will suffice. The "pay period covered by payment" shall indicate the date on which the employment period for which total earnings or wages are being paid began and the date on which it ended.

Section 516.2

EMPLOYEES SUBJECT TO MINIMUM WAGE AND 40-HOUR WEEK OVERTIME PROVISIONS — SECTIONS 6 AND 7 (a)

Section 516.2 provides the items of information and data which must be contained in every employer's pay roll or other records on those of his employees to whom Sections 6 (minimum hourly wages) and 7 (a) (payment of overtime excess compensation when employment in any workweek exceeds 40 hours) are applicable.

The information and data required in the pay rolls on (1) employees who are engaged in Seasonal Industries (as referred to in Section 7 (b) (3) of the Act), (2) in certain Agricultural Industries (as referred to in Section 7 (c)), (3) who are employed under any of the other partial or complete exemptions provided in the Act, (4) Homeworkers, (5) "Red Caps" or those engaged in similar work, or (6) employees whose wages are affected by more than one minimum hourly wage established by a wage order or wage orders, will be found under other sections of Division II.

Section 516.2 is the only Section of Division II with which most establishments — those having all their employees at all times covered by Sections 6 and 7 (a) of the Act—need be concerned.²²

Section 516.3

EMPLOYEES UNDER CERTAIN UNION AGREEMENTS WHO ARE TO BE PAID FOR OVERTIME OVER 12 HOURS A DAY OR 56 HOURS A WEEK AS PROVIDED IN SECTION 7 (b) (1) OR 7 (b) (2)

Section 516.3 provides the information and data to be contained in employers' records if employees are under bona fide union contracts as referred to in Sections 7 (b) (1) or 7 (b) (2) of the Fair Labor Standards Act. An interpretation of these two sections of the Act will be found in Interpretative Bulletin No. 8, Collective Bargaining Agreements Under Section 7 (b) (1) and Section 7 (b) (2) of the Fair Labor Standards Act of 1938 [1941 WH Man. 341].

Since overtime excess compensation under either of these sections is based

²² An explanation of the several items of employee information and data required to be contained in the employer's records on these employees will be found on pp. 510-512, previous.

on either work done in excess of 12 hours a day or in excess of 56 hours a week, the data which an employer is required to have in his pay roll or other records include details concerning the total hours worked each day, when those hours exceed 12, as well as the total hours worked each week. Likewise, and for the same reasons, overtime excess compensation is to be shown both by the day and by the week.

Section 516.4

EMPLOYEES SUBJECT TO MINIMUM WAGE (SECTION 6) AND OVERTIME PROVISIONS GOVERNING "SEASONAL INDUSTRIES" AS PROVIDED IN SECTION 7 (b) (3)

An employer of employees engaged in Seasonal Industries, as referred to in Section 7 (b) (3) of the Act, is exempt from the provisions of Section 7 (a) in the payment of overtime excess compensation for 14 workweeks in the aggregate during the calendar year, but only providing that the employer has complied with the requirements set forth in Regulations Part 526, "Regulations Applicable to Industries of a Seasonal Nature" [1941 WH Man. 480] and providing that the employer then compensates his employees for overtime in accordance with Section 7 (b) (3) during the permissible 14 workweeks. Of course, during the remainder of the year, Section 7 (a) continues in effect, unless the establishment undertakes other operations covered by another exemption provided in the Act, in which case the other exemption then becomes applicable.

Added to the employee information and data which are to be carried in the employer's records²³ the employer is also required, under Paragraph 516.4(b) to maintain a record which will show the exact weeks taken by the establishment under the 14 workweek partial overtime exemption. This is necessary in order to determine (1) the workweeks during which Section 7 (a) is applicable and the employer is obligated to pay overtime excess compensation on the basis of the 40-hour workweek, and (2) the weeks during which the employer operates under the 14 workweek partial overtime exemption provided in Section 7 (b) (3); that is when overtime excess compensation need only be paid for work in excess of 12 hours a day or 56 hours a week.

In addition, as provided in 516.4(c), the employer is also required to post a Notice (phrased as therein stated) at the time of paying his employees, when the pay period includes any week or weeks which are a part of the

14 workweeks exemption provided in Section 7 (b) (3). By this means, employees may check the wages received against the minimum wage and overtime provisions applying to that pay period.²⁴

Section 516.5

EMPLOYEES OF EMPLOYERS OPERATING UNDER THE 14 WORKWEEK TOTAL EXEMPTION FROM SECTION 7 (a) AS PROVIDED IN SECTION 7 (c)

In that part of Section 7 (c) quoted in the footnote to Section 516.5, total exemption from the overtime requirements of Section 7 (a) of the Act is limited to but 14 workweeks of the calendar year for employees in those establishments which are in the industries, or are engaged in those operations named in that quoted part of Section 7 (c). For the remainder of the year, overtime excess compensation must be paid to employees in accordance with Section 7 (a) if those establishments do not undertake other operations covered by another exemption of the Act.²⁵

In addition to the employee information and data which are to be contained in the employer's records,²⁶ the employer is also required under Paragraph 516.5 (b) to maintain a record which will show the exact weeks taken by the establishment under the 14 workweek total overtime exemption.²⁷ This is necessary in order to determine the remaining workweeks during which Section 7 (a) is applicable and the employer is under the statutory necessity of paying overtime excess compensation on the basis of the 40-hour workweek.

Under Paragraph 516.5 (c) the employer is also required to post a Notice (phrased as therein stated) at the time of paying his employees when the pay period includes any week or weeks which are a part of the employer's 14 workweeks overtime ex-

²⁴ An employer may not wait until the end of the season before he selects the workweeks which have constituted the 14 workweeks exemption from the statutory overtime requirements of Section 7 (a). As stated in Interpretative Bulletin No. 4, Paragraph 43, "Overtime compensation earned in a particular workweek must be paid at the regular pay period in which such workweek ends."

²⁵ If, however, those establishments undertake other operations or engage in other industries for which another exemption is provided by another part of the Act, the other exemption then becomes applicable during the period or periods they are so engaged. During the time the establishment is engaged in operations covered by that other exemption provision of the Act the establishment must then maintain records in accordance with the other applicable section of Division II of the Regulations.

²⁶ An explanation of these items will be found on pp. 510-513, previous.
²⁷ An employer may not wait until the end of the season before he selects the workweeks which have constituted the 14 workweeks of exemption from the statutory requirements of Section 7 (a). As stated in Interpretative Bulletin No. 4, Paragraph 43, "Overtime compensation earned in a particular workweek must be paid at the regular pay period in which such workweek ends."

ployer, the monthly salary is also shown as a weekly figure: for example, \$100 month (\$23.08¹⁵ week).¹⁶ Of course, where the total hours worked in any one workweek are great enough to bring the regular hourly rate for any workweek of a salaried employee below the hourly minimum, the employer is then under the necessity of increasing the weekly salary equivalent by such an amount as to assure the employee of at least the minimum hourly rate, provided in either Section 6 or under an applicable Wage Order, for the total weekly hours worked. When this occurs the employer must then show in his pay roll or pay records the actual weekly wage due¹⁷ the employee for each week that that amount is in excess of the customary weekly salary rate.¹⁷

In summary, the total daily or weekly straight-time earnings or wages constitute all earnings or wages received on a basis of hourly rates, piece rates, commissions, weekly salary, or that part of the monthly salary represented by the specific workweek. In any instance where there must be supplementation of the straight-time earnings or wages in order to raise hourly rates to at least the minimum applicable under Section 6 or a Wage Order, this additional supplementation is a part of the "total daily or weekly straight-time earnings or wages."¹⁸

j. Total weekly overtime excess compensation

Here again, it is necessary for the employer to maintain records containing weekly data since Section 7 of the Fair Labor Standards Act provides that overtime excess compensation

¹⁵ Fractions are carried to the nearest cent.
¹⁶ When overtime is worked, the hourly rate is then computed as described in paragraphs 11 and 12 of Interpretative Bulletin No. 4 [1941 WH Man. 129], from this weekly figure and entered as required under "Regular hourly rate of pay."

¹⁷ Thus an employer having an employee paid \$60 a month would show a weekly equivalent of \$13.85 a week (\$60 X 12 = \$720 year, \$720 : 52 weeks = \$13.85 a week). If the employee regularly worked 30 hours a week, the employer would need only show the weekly equivalent after the regular salary on the pay roll or personnel records. If, however, the employee, for example, worked 38 hours during one week and the applicable minimum hourly wage was 40c an hour, there is then due the employee 38 X 40c or \$15.20 for that week's work. Accordingly, for that week the employer, under these Regulations, would show \$15.20 in his weekly basic records, as the wages due that employee for that workweek and at the next semi-monthly pay period he would then pay the employee \$30 plus \$1.35 as total straight-time wages due.

¹⁸ It is also to be noted that any item of additional compensation considered a part of straight-time earnings or wages one week cannot be applied to overtime excess compensation in any subsequent workweek. Likewise, supplementation of earnings in one workweek in order to meet the minimum due cannot be charged against an employer's earnings in a subsequent workweek when the employee makes in excess of the minimum. Such methods are viewed by the Wage and Hour Division as illegal "kickbacks." See Press Release R. 670, "Kickback Devices," 11/14/41 WH Man. 395.

tion shall be paid on the basis of the total weekly hours of employment (or daily and weekly when Section 7 (b) is involved). This does not permit averaging total hours of employment in a pay period over the weeks involved in that period. As a result, overtime excess compensation is to be computed on the basis of at least one-half the employee's "regular hourly rate of pay" for the relevant workweek multiplied by the number of total hours worked in excess of the weekly straight-time permissible hours.

In Interpretative Bulletin No. 4, Paragraph 43 [1941 WH Man. 135], the Wage and Hour Division has already stated that where workweeks are split by pay periods, the Wage and Hour Division will consider the employer to have complied with the overtime provisions of the Act "if he pays an amount in addition to the straight-time wage or salary equal to one-half the regular rate of pay for the number of overtime hours worked in each of the completed workweeks in the period." * * * Overtime compensation earned in a particular workweek must, however, be paid at the regular pay period in which such workweeks end.¹⁹

In summary "The total weekly overtime excess compensation" is the additional compensation due the employee as extra pay for working in excess of 40 hours in any one workweek (or 12 hours a day and 56 hours a week where Section 7 (b) applies). This amount is over and above any straight-time earnings or wages also due during any overtime worked.

k. Total additions to or deductions from wages paid each pay period

In order to corroborate or justify the amounts shown as additions to or deductions from wages due employees, it is necessary for the employer to maintain records showing the basis for the credits or debits. This itemization can either be carried by the employer on the pay roll, on employee pay records or through maintenance of supporting records or accounts.

If the additions to or deductions from wages¹⁹ (1) do not result in the employee receiving weekly cash wages at a rate less than the minimum hourly rate provided in Section 6 of the Act or in an applicable Wage Order, and (2) if the employee does not work in excess of the maximum straight-time hours permitted under Section 7 of the Act, the total additions or deductions need only be carried on a pay period basis.

However, as stated in the Regula-

¹⁹ For types of additions or deductions which affect wages see Interpretative Bulletin No. 3 [1941 WH Man. 175].

tions, "if the additions to or deductions from wages paid so affect the total cash wages due in any workweek (even though the employee actually is paid semimonthly) as to result in the employee receiving less in cash than the minimum hourly wage the employer shall then maintain records showing those additions to or deduction from wages paid on a workweek basis." Likewise, as stated in the Regulations if an employee "works in excess of (the legally permissible straight-time hours) and (a) any additions to the wages paid are a part of that employee's wages, or (b) any deductions made are claimed as allowable deductions under Section 3(m) of the Act, the employer shall then maintain records showing those additions to or deductions from wages paid on a workweek basis."

It is recognized that, in some instances, it may be necessary to prorate the total amount of the addition or deduction made on a monthly or semimonthly or biweekly basis, among the workweeks ending within the pay period. This allocation must be made on an equitable basis²⁰ between the workweeks and so shown in the records.

Certain deductions, of course, may be made from the wages paid the employee without affecting the regular hourly rate of the employee. These are explained in Interpretative Bulletin No. 3, paragraphs 15, 16, and 17 [1941 WH Man. 182]. When such debits are made, the amounts and the reasons for them need only be shown for the pay period.²¹ No attempt need be made to allocate those items among the respective workweeks.

l. Total wage paid each pay period

This item shall include all straight-time earnings or wages due the employee during the pay period and total weekly overtime excess compensation due the employee for all workweeks ending in the period, plus any additions to or less any deductions from those total wages due.

m. Date of payment and pay period covered by payment

The date of payment shall be considered as the date on which the employee was paid in cash or the date on which the employee received his pay check. If the employee is a member of a work force, all of whom are paid on the same day, for a pay period common to all, then a single notation on the pay roll or pay records covering those employees stating the day of

²⁰ That is, the allocation may not be increased or decreased in order to effectuate an increase or decrease in a weekly regular hourly rate of pay of an employee for the purpose of evading the minimum wage or overtime provisions of the Act.

²¹ Notice.—In some States deductions from wages may not be made which result in the employee earning less in cash than a specified hourly, daily, or weekly wage.

payment and the period covered by the payment for the whole work force will suffice. The "pay period covered by payment" shall indicate the date on which the employment period for which total earnings or wages are being paid began and the date on which it ended.

Section 516.2

EMPLOYEES SUBJECT TO MINIMUM WAGE AND 40-HOUR WEEK OVERTIME PROVISIONS — SECTIONS 6 AND 7 (a)

Section 516.2 provides the items of information and data which must be contained in every employer's pay roll or other records on those of his employees to whom Sections 6 (minimum hourly wages) and 7 (a) (payment of overtime excess compensation when employment in any workweek exceeds 40 hours) are applicable.

The information and data required in the pay rolls on (1) employees who are engaged in Seasonal Industries (as referred to in Section 7 (b) (3) of the Act), (2) in certain Agricultural Industries (as referred to in Section 7 (c)), (3) who are employed under any of the other partial or complete exemptions provided in the Act, (4) Homeworkers, (5) "Red Caps" or those engaged in similar work, or (6) employees whose wages are affected by more than one minimum hourly wage established by a wage order or wage orders, will be found under other sections of Division II.

Section 516.2 is the only Section of Division II with which most establishments — those having all their employees at all times covered by Sections 6 and 7 (a) of the Act—need be concerned.²²

Section 516.3

EMPLOYEES UNDER CERTAIN UNION AGREEMENTS WHO ARE TO BE PAID FOR OVERTIME OVER 12 HOURS A DAY OR 56 HOURS A WEEK AS PROVIDED IN SECTION 7 (b) (1) OR 7 (b) (2)

Section 516.3 provides the information and data to be contained in employers' records if employees are under bona fide union contracts as referred to in Sections 7 (b) (1) or 7 (b) (2) of the Fair Labor Standards Act. An interpretation of these two sections of the Act will be found in Interpretative Bulletin No. 8, Collective Bargaining Agreements Under Section 7 (b) (1) and Section 7 (b) (2) of the Fair Labor Standards Act of 1938 [1941 WH Man. 341].

Since overtime excess compensation under either of these sections is based

²² An explanation of the several items of employee information and data required to be contained in the employer's records on these employees will be found on pp. 510-513, previous.

on either work done in excess of 12 hours a day or in excess of 56 hours a week, the data which an employer is required to have in his pay roll or other records include details concerning the total hours worked each day, when those hours exceed 12, as well as the total hours worked each week. Likewise, and for the same reasons, overtime excess compensation is to be shown both by the day and by the week.

Section 516.4

EMPLOYEES SUBJECT TO MINIMUM WAGE (SECTION 6) AND OVERTIME PROVISIONS COVERING "SEASONAL INDUSTRIES" AS PROVIDED IN SECTION 7 (b) (2)

An employer of employees engaged in Seasonal Industries, as referred to in Section 7 (b) (3) of the Act, is exempt from the provisions of Section 7 (a) in the payment of overtime excess compensation for 14 workweeks in the aggregate during the calendar year, but only providing that the employer has complied with the requirements set forth in Regulations Part 526, "Regulations Applicable to Industries of a Seasonal Nature" [1941 WH Man. 480] and providing that the employer then compensates his employees for overtime in accordance with Section 7 (b) (3) during the permissible 14 workweeks. Of course, during the remainder of the year, Section 7 (a) continues in effect, unless the establishment undertakes other operations covered by another exemption provided in the Act, in which case the other exemption then becomes applicable.

Added to the employee information and data which are to be carried in the employer's records²³ the employer is also required, under Paragraph 516.4(b) to maintain a record which will show the exact weeks taken by the establishment under the 14 workweek partial overtime exemption. This is necessary in order to determine (1) the workweeks during which Section 7 (a) is applicable and the employer is obligated to pay overtime excess compensation on the basis of the 40-hour workweek, and (2) the weeks during which the employer operates under the 14 workweek partial overtime exemption provided in Section 7 (b) (3); that is when overtime excess compensation need only be paid for work in excess of 12 hours a day or 56 hours a week.

In addition, as provided in 516.4(c), the employer is also required to post a Notice (phrased as therein stated) at the time of paying his employees, when the pay period includes any week or weeks which are a part of the

²³ An explanation of these several items of employee information and data required to be contained in the employer's records will be found on pp. 510-513, previous.

14 workweeks exemption provided in Section 7 (b) (3). By this means, employees may check the wages received against the minimum wage and overtime provisions applying to that pay period.²⁴

Section 516.5

EMPLOYEES OF EMPLOYERS OPERATING UNDER THE 14 WORKWEEK TOTAL EXEMPTION FROM SECTION 7 (a) AS PROVIDED IN SECTION 7 (c)

In that part of Section 7 (c) quoted in the footnote to Section 516.5, total exemption from the overtime requirements of Section 7 (a) of the Act is limited to but 14 workweeks of the calendar year for employees in those establishments which are in the industries, or are engaged in those operations named in that quoted part of Section 7 (c). For the remainder of the year, overtime excess compensation must be paid to employees in accordance with Section 7 (a) if these establishments do not undertake other operations covered by another exemption of the Act.²⁵

In addition to the employee information and data which are to be contained in the employer's records,²⁶ the employer is also required under Paragraph 516.5 (b) to maintain a record which will show the exact weeks taken by the establishment under the 14 workweek total overtime exemption.²⁷ This is necessary in order to determine the remaining workweeks during which Section 7 (a) is applicable and the employer is under the statutory necessity of paying overtime excess compensation on the basis of the 40-hour workweek.

Under Paragraph 516.5 (c) the employer is also required to post a Notice (phrased as therein stated) at the time of paying his employees when the pay period includes any week or weeks which are a part of the employer's 14 workweeks overtime ex-

²⁴ An employer may not wait until the end of the season before he selects the workweeks which have constituted the 14 workweeks exemption from the statutory overtime requirements of Section 7 (a). As stated in Interpretative Bulletin No. 4, Paragraph 43, "Overtime compensation earned in a particular workweek must be paid at the regular pay period in which such workweek ends."

²⁵ If, however, those establishments undertake other operations or engage in other industries for which another exemption is provided by another part of the act, the other exemption then becomes applicable during the period or periods the named engaged. During the time the establishment is engaged in operations covered by that other exemption Division II of the Act, the establishment must then maintain records in accordance with the other applicable section of Division II of the Regulations.

²⁶ An explanation of these items will be found on pp. 510-513, previous.

²⁷ An employer may not wait until the end of the season before he selects the workweeks which have constituted the 14 workweeks of exemption from the statutory requirements of Section 7 (a). As stated in Interpretative Bulletin No. 4, Paragraph 43, "Overtime compensation earned in a particular workweek must be paid at the regular pay period in which such workweek ends."

emption provided in Section 7 (c). By this means, employees will know that they are being paid on a straight-time basis; no statutory overtime excess compensation being then involved.

Section 516.6

EMPLOYEES TOTALLY EXEMPT FROM OVERTIME PAYMENT PURSUANT TO PART OF SECTION 7 (c) AND SECTIONS 13 (b) (1) AND 13 (b) (2)

Section 516.6 provides the employee information and data which the employer is required to have in his records²⁸ on those employees to whom the minimum hourly wage provisions of Section 6 (or an applicable wage order) apply but to whom the employer is not legally obligated to pay overtime excess compensation due to the applicability of one part of Section 7 (c) (quoted in full in the footnote to Section 516.6) or Section 13 (b) (1)²⁹ or 13 (b) (2) of the Act.

It should be noted, however, that these exemptions apply only on a workweek basis. In any workweek in which an employee does not fall within the scope of the exemptions named, records must then be kept in accordance with such other Section of Division II of the Regulations as thereupon becomes applicable.

Section 516.7

BONA FIDE EXECUTIVE, ADMINISTRATIVE, PROFESSIONAL, LOCAL RETAIL, AND OUTSIDE SALES EMPLOYEES AS REFERRED TO IN SECTION 13 (a) (1)

Section 516.7 provides the information and data which the employer is required to have in his pay roll or other records on those employees employed under Section 13 (a) (1) of the Act. That is, those who come within the definition of Part 541, Regulations Defining and Delimiting the Terms "Any Employee Employed in a Bona Fide Executive, Administrative, Professional, or Local Retailing Capacity or in the Capacity of Outside Salesman" [1941 WH Man. 424].

²⁸ An explanation of these items will be found on pp. 510-513, previous.

²⁹ Section 13 (b) (1) of the Act applies only to those employees "with respect to whom the Interstate Commerce Commission has power to establish qualifications and maximum hours of service pursuant to the provisions of Section 204 of the Motor Carrier Act, 1935." For an interpretation of the applicability of this Section to various types of Motor Carrier employment, see Interpretative Bulletin No. 9, Exemption from Maximum Hour Provisions for Certain Employees of Motor Carriers [4 WHR 187].

Section 516.8

EMPLOYEES UNDER MORE THAN ONE MINIMUM HOURLY RATE FIXED BY WAGE ORDERS

As a result of the promulgation of Wage Orders issued in accordance with

Section 8 of the Fair Labor Standards Act, employees in some instances may be engaged in work for a part of the workweek to which one minimum wage rate is applicable and for the remainder of the workweek on other work covered by another minimum or other minima. Where this is the case, and providing that the individual employee's work can be segregated according to the applicability of each different minimum wage rate, an employer may then maintain pay roll or other records containing information and data which will permit him to determine the length of each work period during which a different minimum wage rate is applicable and the earnings or wages thereby due for each of those periods.³⁰

In regard to the payment of earnings in accordance with the applicable minimum, the Wage and Hour Division in a press release of August 2, 1940, stated "When the work is done on a piece-rate basis, amounts earned in excess of the minimum wage on one product may not be used to make up any deficiencies in amounts earned at piece rates on other products covered by other minimum-wage rates."³¹

The items which are to be kept by the employer in accordance with this section are in addition to any other information and data also required by any other applicable section of Division II. Furthermore, as provided in paragraph (b) of this section, if an employer has started to keep the supplementary records therein provided he must continue to keep those additional records without interruption. Furthermore, as stated in that paragraph, "If he ceases or fails to do so in any work-week he may not resume the keeping of such records for a period of two months after the cessation date and then only after written notice of such resumption to the Wage and Hour Division."

Attention is also called to paragraph (c) of this section, which provides that an employer may only keep these supplementary data if the employee's work can be adequately segregated according to the applicable minima. Such supplementary records on other employees, such as clerical and maintenance personnel, are not permitted under these Regulations.³²

³⁰ Determination of the "regular rate of pay" to be used in the payment of overtime excess compensation is, however, arrived at by dividing the total straight-time earnings for the whole workweek by the total hours worked. Overtime excess compensation cannot be based upon the earnings of any single part of the workday or the workweek. The workweek's earnings or wages must be considered as a whole in computing "the regular hourly rate" of an employee.

³¹ Press Release R. 937 [41 WH Man. 525].

³² In Press Release R. 937, the Wage and Hour Division has stated that for employees whose work cannot be segregated according to work done under each different minimum rate, the week is to be treated as a whole.

Section 516.9

LEARNERS, APPRENTICES, MESSENGERS, AND HANDICAPPED WORKERS UNDER SPECIAL CERTIFICATES AS PROVIDED IN SECTION 14

As provided in Section 516.9, the information and data which an employer is to have in his records on learners, apprentices, messengers, or handicapped workers, who are employed under special certificates issued in accordance with Section 14 of the Act, shall be the same as those required in any other Section of Division II applying to other employees employed in those occupations. In maintaining such information and data in the pay roll or other records the employer is required to segregate the names³³ and required information and data on those persons employed under special certificates from those names and information and data maintained on other employees. In any instance where an employer has departmentalized employment and consequently maintains separate pay roll or other records for each work force the segregation may be made on these separate departmental or work-force records.

Section 516.10

'RED CAPS' AND OTHER EMPLOYEES DEPENDENT ON TIPS AS PART OF WAGES

Under Section 516.10, in any instance where employees are dependent upon tips or gratuities as a part of their wages additional information and data on those employees are required to be kept in the employer's pay roll or other records. The information and data required by this section are supplementary to the information and data which the employer is also required to have in his records under any other applicable sections of Division II.

Section 516.11

HOMEWORKERS

Since industrial homeworkers are outside the direct supervision of the employer, it is necessary for each of those employees, as homeworkers, to maintain records of time and work done for the employer. This is through use of homework hand-

Accordingly, for those employees, the highest applicable minimum wage rate applies to all hours employed throughout the workweek.

³³ The employer is also required to put a symbol or letter by the name indicating the "learner" or other status of the employee. When and if an employee is subsequently raised to the full minimum (as for instance a learner completing the learning period) the symbol or letter should thereafter be dropped.

books.³⁴ From the information and data kept by the employees in their homework handbooks, the employer is then able to secure the information and data which it is necessary for him to maintain in his (the employer's) payroll or other records covering those employees.

It may be noted that records on homeworkers employed in the needlework industries in Puerto Rico are not covered by this subsection. Records on those employees in Puerto Rico are to be found in Part 545, Regulations Relating to Homeworkers in the Needlework Industries in Puerto Rico [1941 WH Man. 301].

Section 516.12

EMPLOYEES AFFECTED BY THE EXEMPTIONS PROVIDED IN SECTIONS 13(a) (2), (3), (4), (5) (6), (8), (9), (10), OR (11)

Under Section 13 (a) of the Fair Labor Standards Act, employees employed under certain specified conditions or in certain specified industries are declared exempt from the minimum hourly wage and overtime provisions of the Act (Sections 6 and 7) even though they are under the general coverage of the Act through being engaged in commerce or the production of goods for commerce. Questions of the applicability of the various Section 13 (a) exemptions to employees depend upon such facts as the occupations in which the employees are employed (that is, the nature of the work) and the place or places where those employees are employed. Consequently, the Record Keeping Regulations require that a minimum of information and data be maintained in the employer's records on those employees for whom many of the above named exemptions are claimed.

Item 5 of this section provides that the employer shall maintain a record of the place or places of employment of the employee. In some instances, employees may spend much of their time away from the establishment of the employer. Where this is the case, the employer should indicate on his records that place or those places of employment where the employee is required to report for work. In the instance of the seamen's exemption (Section 13 (a) (3)) for example, the name of the ship on which the seaman is engaged should be given as the place of employment.

³⁴ These handbooks in which the employee keeps the required information and data are available on request of the Regional Office of the Wage and Hour Division. The employer is responsible for securing these handbooks, delivering them to homeworkers, and for seeing that they are properly maintained.

Section 516.13

RECORDS IN THE CASE OF AN OVERLAP OF PREVIOUS SECTIONS

Employees of one employer may be so employed as to be subject, from time to time, to different provisions of the Act. When this is true, more than one section of Division II of the Record Keeping Regulations may be brought into play during the course of employment through the employee working under certain minimum wage and overtime provisions of the Act for some workweeks and under other minimum wage and overtime provisions (or exemptions therefrom) for other workweeks. Thus, for example, certain establishments may be engaged in "seasonal industries" for a number of workweeks of the year, during which weeks they are under the necessity of maintaining employee records in accordance with Section 516.4. Later those establishments, with the same labor force, may be engaged in "the first processing of fresh fruits and vegetables." During those operations the employer is under the necessity of maintaining records in accordance with Section 516.5.

In any such instance, under Section 516.13, an employer need not maintain a separate set of records for each period of employment to which different minimum wage, overtime, or exemption provisions of the Act apply. This, however, is only permissible providing that all items which are duplicated in the relevant sections are maintained during all workweeks that the employees are covered by the Act and, in addition, providing that the additional unduplicated employee information, data, and records are maintained for the workweeks those employees are employed under the sections of the Act referred to in the relevant section of the Record Keeping Regulations.

III.—LENGTH OF TIME RECORDS SHALL BE PRESERVED

Section 516.14

RECORDS TO BE PRESERVED FOUR YEARS

Section 516.14 requires that all payroll or other records of the employer, which contain any of the employee information and data named or listed in any applicable section of Division II, shall be preserved for four years from the date on which the last entry was made in those records. In addition, where the employer is required under any section to maintain other records (such as Notices which he must post), or certificates, union agreements, and amendments or additions made thereto, such shall also be preserved for

four years from their last effective date.

These records which shall be preserved for four years include, of course, any basic records, such as daily or weekly time and earning cards or work-force sheets, in which the employer has kept any of the information and data required by the regulations, if that required information and data has not been transcribed to or made a part of the general payroll or other pay-period records.

Section 516.15

RECORDS TO BE PRESERVED TWO YEARS

BASIC EMPLOYMENT AND EARNINGS RECORDS

Paragraph 516.15(a) (1) requires that each employer shall preserve for two years those basic employment and earning data used by him in the course of his operations to set or determine the hours of employment, the basis on which employees are paid and the amounts of such payments due. Such basic material is that which substantiates those pay-roll or other records which contain the information and data required by any of the Sections of Division II.

This section of the Record Keeping Regulations does not require an employer to make and keep additional records to those which he has made for his own accounting purposes.

The records covered in Paragraph (1) include those basic records, often described as "time-earning cards" or "production cards," which an employer keeps of the time employees start and cease work, and/or on which daily or weekly employee production-earning data are entered. In other words, those cards or sheets used by the employer in computing hours worked and production of employees for pay-roll purposes.

WAGE RATE TABLES

Paragraph 516.15(a) (2) includes such records as conversion tables, piece-rate tables, or other tables or schedules which establish the basis on which employees' earnings are computed for the work done. These schedules or tables may be hourly, daily, weekly or pay period wage rate tables. Or they may be piece-rate tables or schedules. Likewise, in the instance of employees such as truck drivers, helpers or other employees whose wages or earnings depend upon mileage or travel time, these tables or schedules include any which establish their mileage or travel-time rate.

WORK TIME SCHEDULES

Paragraph 516.15(a) (3) refers to those work-force schedules by which the employer establishes the hours of employment of separate work forces,

emption provided in Section 7 (c). By this means, employees will know that they are being paid on a straight-time basis; no statutory overtime excess compensation being then involved.

Section 516.6
EMPLOYEES TOTALLY EXEMPT FROM OVERTIME PAYMENT PURSUANT TO PART OF SECTION 7 (c) AND SECTIONS 13 (b) (1) AND 13 (b) (2)

Section 516.6 provides the employee information and data which the employer is required to have in his records²⁸ on those employees to whom the minimum hourly wage provisions of Section 6 (or an applicable wage order) apply but to whom the employer is not legally obligated to pay overtime excess compensation due to the applicability of one part of Section 7 (c) (quoted in full in the footnote to Section 516.6) or Section 13 (b) (1)²⁹ or 13 (b) (2) of the Act.

It should be noted, however, that these exemptions apply only on a workweek basis. In any workweek in which an employee does not fall within the scope of the exemptions named, records must then be kept in accordance with such other Section of Division II of the Regulations as thereupon becomes applicable.

Section 516.7
BONA FIDE EXECUTIVE, ADMINISTRATIVE, PROFESSIONAL, LOCAL RETAIL, AND OUTSIDE SALES EMPLOYEES AS REFERRED TO IN SECTION 13 (a) (1)

Section 516.7 provides the information and data which the employer is required to have in his pay roll or other records on those employees employed under Section 13 (a) (1) of the Act. That is, those who come within the definition of Part 541, Regulations Defining and Delimiting the Terms "Any Employee Employed in a Bona Fide Executive, Administrative, Professional, or Local Retailing Capacity or in the Capacity of Outside Salesman" [1941 WH Man. 424].

²⁸ An explanation of these items will be found on pp. 516-517, previous.
²⁹ Section 13 (b) (1) of the Act applies only to those employees "with respect to whom the Interstate Commerce Commission has power to establish qualifications and maximum hours of service pursuant to the provisions of Section 204 of the Motor Carrier Act, 1935." For an interpretation of the applicability of this Section to various types of Motor Carrier employees, see Interpretative Bulletin No. 9, Exemption from Maximum Hour Provisions for Certain Employees of Motor Carriers [4 WHR 187].

Section 516.8
EMPLOYEES UNDER MORE THAN ONE MINIMUM HOURLY RATE FIXED BY WAGE ORDERS

As a result of the promulgation of Wage Orders issued in accordance with

Section 8 of the Fair Labor Standards Act, employees in some instances may be engaged in work for a part of the workweek to which one minimum wage rate is applicable and for the remainder of the workweek on other work covered by another minimum or other minima. Where this is the case, and providing that the individual employee's work can be segregated according to the applicability of each different minimum wage rate, an employer may then maintain pay roll or other records containing information and data which will permit him to determine the length of each work period during which a different minimum wage rate is applicable and the earnings or wages thereby due for each of those periods.³⁰

In regard to the payment of earnings in accordance with the applicable minimum, the Wage and Hour Division in a press release of August 2, 1940, stated "When the work is done on a piece-rate basis, amounts earned in excess of the minimum wage on one product may not be used to make up any deficiencies in amounts earned at piece rates on other products covered by other minimum-wage rates."³¹

The items which are to be kept by the employer in accordance with this section are in addition to any other information and data also required by any other applicable section of Division II. Furthermore, as provided in paragraph (b) of this section, if an employer has started to keep the supplementary records therein provided he must continue to keep those additional records without interruption. Furthermore, as stated in that paragraph, "If he ceases or fails to do so in any work-week he may not resume the keeping of such records for a period of two months after the cessation date and then only after written notice of such resumption to the Wage and Hour Division."

Attention is also called to paragraph (c) of this section, which provides that an employer may only keep these supplementary data if the employee's work can be adequately segregated according to the applicable minima. Such supplementary records on other employees, such as clerical and maintenance personnel, are not permitted under these Regulations.³²

³⁰ Determination of the "regular rate of pay" to be used in the payment of overtime excess compensation is, however, arrived at by dividing the total straight-time earnings for the whole workweek by the total hours worked. Overtime excess compensation cannot be based upon the earnings of any single part of the workday or the workweek. The workweek's earnings or wages must be considered as a whole in computing "the regular hourly rate" of an employee.
³¹ Press Release R. 837 [41 WH Man. 325].
³² In Press Release R. 837, the Wage and Hour Division has stated that for employees whose work cannot be segregated according to work done under each different minimum rate, the week is to be treated as a whole.

Section 516.9

LEARNERS, APPRENTICES, MESSENGERS, AND HANDICAPPED WORKERS UNDER SPECIAL CERTIFICATES AS PROVIDED IN SECTION 14

As provided in Section 516.9, the information and data which an employer is to have in his records on learners, apprentices, messengers, or handicapped workers, who are employed under special certificates issued in accordance with Section 14 of the Act, shall be the same as those required in any other Section of Division II applying to other employees employed in those occupations. In maintaining such information and data in the pay roll or other records the employer is required to segregate the names³³ and required information and data on those persons employed under special certificates from those names and information and data maintained on other employees. In any instance where an employer has departmentalized employment and consequently maintains separate pay roll or other records for each work force the segregation may be made on these separate departmental or work-force records.

Section 516.10

'RED CAPS' AND OTHER EMPLOYEES DEPENDENT ON TIPS AS PART OF WAGES

Under Section 516.10, in any instance where employees are dependent upon tips or gratuities as a part of their wages additional information and data on those employees are required to be kept in the employer's pay roll or other records. The information and data required by this section are supplementary to the information and data which the employer is also required to have in his records under any other applicable sections of Division II.

Section 516.11

HOMEWORKERS

Since industrial homeworkers are outside the direct supervision of the employer, it is necessary for each of those employees, as homeworkers, to maintain records of time and work done for the employer. This is through use of homework hand-

Accordingly, for those employees, the highest applicable minimum wage rate applies to all hours employed throughout the workweek.

³³ The employer is also required to put a symbol or letter by the name indicating the "learner" or other status of the employee. When and if an employee is subsequently raised to the full minimum (as for instance a learner completing the learning period) the symbol or letter should thereafter be dropped.

books.³⁴ From the information and data kept by the employees in their homework handbooks, the employer is then able to secure the information and data which it is necessary for him to maintain in his (the employer's) payroll or other records covering those employees.

It may be noted that records on homeworkers employed in the needlework industries in Puerto Rico are not covered by this subsection. Records on those employees in Puerto Rico are to be found in Part 545, Regulations Relating to Homeworkers in the Needlework Industries in Puerto Rico [1941 WH Man. 301].

Section 516.12

EMPLOYEES AFFECTED BY THE EXEMPTIONS PROVIDED IN SECTIONS 13(a) (2), (3), (4), (5) (6), (8), (9), (10), OR (11)

Under Section 13(a) of the Fair Labor Standards Act, employees employed under certain specified conditions or in certain specified industries are declared exempt from the minimum hourly wage and overtime provisions of the Act (Sections 6 and 7) even though they are under the general coverage of the Act through being engaged in commerce or the production of goods for commerce. Questions of the applicability of the various Section 13(a) exemptions to employees depend upon such facts as the occupations in which the employees are employed (that is, the nature of the work) and the place or places where those employees are employed. Consequently, the Record Keeping Regulations require that a minimum of information and data be maintained in the employer's records on those employees for whom many of the above named exemptions are claimed.

Item 5 of this section provides that the employer shall maintain a record of the place or places of employment of the employee. In some instances, employees may spend much of their time away from the establishment of the employer. Where this is the case, the employer should indicate on his records that place or those places of employment where the employee is required to report for work. In the instance of the seamen's exemption (Section 13(a) (3)) for example, the name of the ship on which the seaman is engaged should be given as the place of employment.

³⁴ These handbooks in which the employee keeps the required information and data are available on request of the Regional Office of the Wage and Hour Division. The employer is responsible for securing these handbooks, delivering them to homeworkers, and for seeing that they are properly maintained.

Section 516.13

RECORDS IN THE CASE OF AN OVERLAP OF PREVIOUS SECTIONS

Employees of one employer may be so employed as to be subject, from time to time, to different provisions of the Act. When this is true, more than one section of Division II of the Record Keeping Regulations may be brought into play during the course of employment through the employee working under certain minimum wage and overtime provisions of the Act for some workweeks and under other minimum wage and overtime provisions (or exemptions therefrom) for other workweeks. Thus, for example, certain establishments may be engaged in "seasonal industries" for a number of workweeks of the year, during which weeks they are under the necessity of maintaining employee records in accordance with Section 516.4. Later those establishments, with the same labor force, may be engaged in "the first processing of fresh fruits and vegetables." During those operations the employer is under the necessity of maintaining records in accordance with Section 516.5.

In any such instance, under Section 516.13, an employer need not maintain a separate set of records for each period of employment to which different minimum wage, overtime, or exemption provisions of the Act apply. This, however, is only permissible providing that all items which are duplicated in the relevant sections are maintained during all workweeks that the employees are covered by the Act and, in addition, providing that the additional unduplicated employee information, data, and records are maintained for the workweeks those employees are employed under the sections of the Act referred to in the relevant section of the Record Keeping Regulations.

III.—LENGTH OF TIME RECORDS SHALL BE PRESERVED

Section 516.14

RECORDS TO BE PRESERVED FOUR YEARS

Section 516.14 requires that all payroll or other records of the employer, which contain any of the employee information and data named or listed in any applicable section of Division II, shall be preserved for four years from the date on which the last entry was made in those records. In addition, where the employer is required under any section to maintain other records (such as Notices which he must post), or certificates, union agreements, and amendments or additions made thereto, such shall also be preserved for

four years from their last effective date.

These records which shall be preserved for four years include, of course, any basic records, such as daily or weekly time and earning cards or work-force sheets, in which the employer has kept any of the information and data required by the regulations, if that required information and data has not been transcribed to or made a part of the general payroll or other pay-period records.

Section 516.15

RECORDS TO BE PRESERVED TWO YEARS

BASIC EMPLOYMENT AND EARNINGS RECORDS

Paragraph 516.15(a) (1) requires that each employer shall preserve for two years those basic employment and earning data used by him in the course of his operations to set or determine the hours of employment, the basis on which employees are paid and the amounts of such payments due. Such basic material is that which substantiates those pay-roll or other records which contain the information and data required by any of the Sections of Division II.

This section of the Record Keeping Regulations does not require an employer to make and keep additional records to those which he has made for his own accounting purposes.

The records covered in Paragraph (1) include those basic records, often described as "time-earning cards" or "production cards," which an employer keeps of the time employees start and cease work, and/or on which daily or weekly employee production-earning data are entered. In other words, those cards or sheets used by the employer in computing hours worked and production of employees for pay-roll purposes.

WAGE RATE TABLES

Paragraph 516.15(a) (2) includes such records as conversion tables, piece-rate tables, or other tables or schedules which establish the basis on which employees' earnings are computed for the work done. These schedules or tables may be hourly, daily, weekly or pay period wage rate tables. Or they may be piece-rate tables or schedules. Likewise, in the instance of employees such as truck drivers, helpers or other employees whose wages or earnings depend upon mileage or travel time, these tables or schedules include any which establish their mileage or travel-time rate.

WORK TIME SCHEDULES

Paragraph 516.15(a) (3) refers to those work-force schedules by which the employer establishes the hours of employment of separate work forces,

or of individual employees, when not all employees are customarily employed during the same hours or the same days.

The form in which any of these records named in 516.15(a) shall be kept is not prescribed. Thus, any of the tables or schedules referred to may be in the form of notices posted for the information of employees,³⁵ or may be contained in company letters or office memoranda. There is no requirement that the data, schedules or tables be transcribed from such notices, letters or memoranda to formal records. The only requirement is that the cards, tables or schedules be retained in whatever form they were originally prepared and used. They, of course, should be legible and kept in some reasonable order.

ORDER SHIPPING AND BILLING RECORDS

Paragraph 516.15(b) specifies the types of order, shipping and billing records which an employer must preserve. The employer is not required to keep originals of the records named, providing that he preserves true copies. A "true copy" is a copy of the original giving the names and addresses of the persons or concerns involved, together with full details of the content of the order or invoice received, or the shipping record or billing made as it was carried or entered in the original.

No additional records are required by this section. The only records covered are those "which the employer retains or makes in the course of his business or operations."

RECORDS OF ADDITIONS TO OR DEDUCTIONS FROM WAGES PAID

Paragraph 516.15(c) covers those types of records which the employer is required to preserve in order to establish, in detail, the basis for any additions to or deductions from wages paid. They are not limited to those additions to or deductions from wages paid which are involved in board, lodging or other facilities furnished by the employer, as referred to in Section 3 (m) of the Act, but include all records which establish the basis for any or all additions or deductions.

IV.—LOCATION AND INSPECTION OF RECORDS

Section 516.16

PLACE FOR KEEPING RECORDS AND INSPECTION RECORDS

Section 516.16 requires that all records, preserved as provided in Sections 516.14 and 516.15, be kept safe and accessible by the employer at the place

³⁵ These, of course, do not include Notices which the employer is required to post by Wage-Hour Division Regulations. Those required Notices are to be preserved for four years in accordance with Section 516.14.

or places of employment or at one or more established central record keeping offices. If the records are kept at a central office, those records are to be made available at the place of inspection within 72 hours after notice. In addition, wherever kept, the records shall be open to inspection and transcription at any time by an authorized representative of the Wage and Hour Division.

Under this section, records may only be removed to and kept at a central office if the employer customarily uses that central office in handling his records; that is, in making up pay rolls or in keeping pay-roll and other employment records which are developed from time cards or work records. Removal of records from the place of employment for any purpose of evading or delaying inspection is not permissible.³⁶

In regard to records being kept "safe and accessible": Records which are not protected from possible loss or destruction cannot be considered as safely kept; records which cannot be readily located and which are not in reasonable order cannot be considered as accessible.

V.—REPORTS ON RECORDS

Section 516.17

COMPUTATIONS AND REPORTS

Pursuant to Section 516.17, the Administrator or his representative may call upon and secure from an employer any extension, recomputation or transcription of his records found necessary in determining compliance with the Act or any Regulations issued thereunder. In addition, the Administrator or his duly authorized representative may call upon the employer for reports on the records which he keeps.

That part of this Section concerning reports invokes the authority granted the Administrator by Section 11(c) of the Act. It is to be understood that any reports submitted will be held confidential by the Wage and Hour Division and its employees. Any disclosures outside the Wage and Hour Division made therefrom will only be made where such are necessary in cases of litigation, or in checking information and data reported by an employer against information and data which may be submitted by an employee (but only insofar as that individual employee's information and data are concerned) or in releasing information and data to other public agencies having a lawful right thereto.

³⁶ Neither does this provision concerning possible removal of records relieve any employer of any obligation to keep records at the place of employment when state, municipal, or other agencies, under their regulations, require the retention of records at the place of employment.

VI.—GRANTING OF EXCEPTIONS

Section 516.18

PETITIONS FOR EXCEPTIONS

Section 516.18 is largely self-explanatory. Particular attention is called, however, to the last paragraph of this section relative to required continued compliance with the Record Keeping Regulations even though a petition has been submitted. Submission of a petition does not relieve an employer of any record keeping obligation under these Regulations. Furthermore, this section is open only to those employers who are in fact complying with all applicable provisions of the Act and of orders or other regulations issued thereunder, but who find it necessary to maintain records not fully in conformance with certain formal provisions of the Record Keeping Regulations.

Granting of authority to maintain records, as desired depends upon the employer showing that his records, as he desires to keep or preserve them, can and will establish all the separate items named or listed (particularly those relating to the workweek) whenever the employer may be called upon for such information or data. Likewise, as to relief from preserving certain records: Such relief will only be granted if it is found that the remaining records which the employer proposes to preserve will furnish any and all necessary information and data required by these Regulations as well as any additional information needed in determining any question of employee or establishment coverage.

It is to be noted that any authority granted may be withdrawn at any time for cause and may be circumscribed by such conditions as are found necessary.

Sample Record Forms

Prepared by the Staff

Of

WAGE AND HOUR REPORTER

Record-Keeping Regulations Illustrated

Sample payroll forms are presented to show one possible method of recording information required by regulations of Wage-Hour Administrator.

To illustrate the requirements of the Wage and Hour Administrator's new record-keeping regulations (4 WHR 492), the sample payroll forms below have been prepared by the editorial staff of *WAGE AND HOUR REPORTER* after consultation with officials of the Wage and Hour Division.

No particular form for keeping records is prescribed under the Administrator's regulations, which require only that certain specified data be recorded and preserved for a period of years. The employer is free to choose the form for maintaining these data which best fits his own requirements.

The sample forms below are designed to obviate the need for recording all of the information required each time the employer makes up his weekly, semi-monthly or monthly payroll record. Items which change only occasionally or not at all during each employee's period of employment are carried on a separate personnel record. Detailed information as to each employee's hours and earnings is recorded on individual weekly time sheets. In the payroll record itself appears only such information as is necessary to determine each employee's total compensation for the pay period.

The specimen records are those of a company which pays its employees once a week. All employees whose records are shown are assumed to be fully covered by the law. For home workers and employees compensated partly by tips additional information must be recorded. Where exemption is claimed for any employee, additional items of information may also be required; in some cases, less information is called for.

LOCATION OF DATA

The specific items of information required for employees fully covered by the law are handled in the sample forms in this manner:

A. Carried on personnel card:

1. Name in full and code number or abbreviation used to designate employee in weekly time sheets and weekly payroll record.

2. Home address.

3. Date of birth (required only if employee is under 19).

4. Occupation. Where this information is carried on the personnel card rather than the weekly payroll sheet, provision must be made for noting any change in the employee's occupation and the effective date of such change.

5. Time of day and name of day on which the employee's workweek begins. This does not necessarily mean the time at which the employee starts to work, but rather the beginning of the seven-day period which constitutes the employee's workweek for overtime purposes. Thus any hour of any day may be chosen as the time at which the employee's workweek begins, provided only that (a) this hour is not changed from week to week to avoid overtime liability and (b) the employee is paid overtime compensation for work in excess of 40 hours in the seven-day period following this time. If, as is usual, the workweek of all employees in the plant is considered to begin at the same time, this item may be omitted from the individual employee's personnel card. Under this circumstance a notation somewhere in the employer's records of the time of day and name of day on which the plant workweek begins is sufficient.

6. Basis on which wages are paid. This may be shown, the regulations explain, as "50¢ hr.", "\$3.00 a day", "piece rates", etc. As in the case of "occupation", provision must be made, if this information is not carried on weekly records, for showing any change in the basis on which the employee's wages are paid, together with the effective date of such change.

WEEKLY TIME SHEETS

B. Carried on weekly time sheets:

1. Hours worked each workday and total hours worked each workweek.

2. Total daily or weekly straight-time earnings or wages. In addition to salary, wages or piece-work earnings, this figure includes any bonus which is part of the employees' regular rate of pay (see 4 WHR 463) and any addition to the employee's straight-time earnings to bring his

average hourly earnings up to the minimum required under the Act.

3. Regular hourly rate of pay. This figure is determined, according to the Wage and Hour Division, by dividing total weekly straight-time earnings by total hours worked in that week.

C. Carried on summary payroll record:

1. Total hours worked.

2. Total straight-time earnings.

3. Overtime compensation. This is determined by multiplying one-half the employee's regular rate of pay by the number of hours worked in excess of 40.

4. Total earnings, i.e., the sum of straight-time earnings and overtime compensation.

5. Deductions from wages paid. In order to corroborate or justify the amounts shown as deductions, the employer is required either to itemize deductions or maintain separate supporting records.

6. Total wages paid.

7. Date of payment and period covered by payment.

BASES OF COMPENSATION

The sample forms below include the records of six employees, each of whom is compensated in a different manner. The first is paid an hourly wage plus production bonus; the second, a weekly salary for an indefinite number of hours per week; the third, a weekly salary for a definite number of hours per week; the fourth is compensated on a piece-rate basis.

Employees five and six are assumed to work in the same week at two occupations for each of which a different minimum wage applies under the Act. Under these circumstances, the employer who desires to take advantage of the lower minimum rate for the hours in the week in which the employee is subject to that rate must keep records showing the hours spent by the employee on products subject to each wage rate. Unless this additional information is recorded, the Division requires that the employee receive for the entire week the highest minimum rate to which he was entitled for any part of the week (see Sec. 516.8 of regulations, 4 WHR 496).

1. Hourly paid employee.

PERSONNEL RECORD

Name Tucker, James Wilson Code No. JWT
Last First Middle
Address 1426 Chicago Ave., Chicago
Date of Birth¹ Social Security No. 129-99-4231
Date on Which Employment Began² 5-15-29
Occupation Machine Operator

Changes
in { Date of Change 2 New Occupation

Occupation { Date of Change 2 New Occupation
60¢ hr. plus prod. bonus From To

Compensation From To
Compensation From To
Compensation From To

(Time of Day and Name of Day on Which Workweek Begins....12:01 a.m. Sunday)⁴

3. Employee paid fixed salary for workweek of 40 hours.

PERSONNEL RECORD

Name Kellam, Louella Barr Code No. LBK
Last First Middle
Address 817 S. Lee St., Chicago
Date of Birth¹ Social Security No. 356-99-2176
Date on Which Employment Began² 10-4-39
Occupation Stenographer

Changes
in { Date of Change 2 New Occupation

Occupation { Date of Change 2 New Occupation
\$18 per week of 40 hours From 10- 4-39 To 1- 1-41
\$20 per week of 40 hours From 1- 1-41 To

Compensation From To
Compensation From To
Compensation From To

(Time of Day and Name of Day on Which Workweek Begins....12:01 a.m. Sunday)⁴

5. Employee paid minimum hourly wage and employed in the same workweek on two or more products for each of which a different minimum rate has been established by wage order.

PERSONNEL RECORD

Name Morris, Ivan Code No. IM
Last First Middle
Address 415 S. Lee St., Chicago
Date of Birth¹ Social Security No. 130-96-4212
Date on Which Employment Began 12-6-40
Occupation Drill Press Operator

Changes
in { Date of Change 2 New Occupation

Occupation { Date of Change 2 New Occupation
Hourly wage (wage order) From 12- 6-40 To

Compensation From To
Compensation From To
Compensation From To

(Time of Day and Name of Day on Which Workweek Begins....12:01 a.m. Sunday)⁴

¹ Required only if employee is under 19.

² Not specifically required under regulations but necessary if employee's occupation is not listed each week in weekly payroll record.

2. Employee paid fixed salary for fluctuating workweek.

PERSONNEL RECORD

Name Dorrance, Edmund Hunter Code No. EHD
Last First Middle
Address 422 Davis St., Chicago
Date of Birth¹ Social Security No. 154-99-2176
Date on Which Employment Began² 6-1-38
Occupation Bookkeeper

Changes
in { 7-1-40 Date of Change 2 Clerical Supervisor New Occupation³

Occupation { Date of Change 2 New Occupation
Compensation³ \$35 per week From 6- 1-38 To 9- 1-38
Compensation \$40 per week From 9- 1-38 To 7- 1-40
Compensation \$47 per week From 7- 1-40 To 10-15-40
Compensation \$50 per week From 10-15-40 To

(Time of Day and Name of Day on Which Workweek Begins....12:01 a.m. Sunday)⁴

4. Employee paid piece rates with production bonus.

PERSONNEL RECORD

Name Denton, David Code No. DD
Last First Middle
Address 126 Railroad Ave., Chicago
Date of Birth¹ June 4, 1924 Social Security No. 369-99-7241
Date on Which Employment Began² 9-15-41
Occupation Multigraph Operator

Changes
in { Date of Change 2 New Occupation

Occupation { Date of Change 2 New Occupation
Piece rates and bonus From 9-15-41 To

Compensation From To
Compensation From To
Compensation From To

(Time of Day and Name of Day on Which Workweek Begins....12:01 a.m. Sunday)⁴

6. Employee paid piece rates and employed in the same workweek on two or more products for each of which a different minimum rate has been established by wage order.

PERSONNEL RECORD

Name Sutton, James Davis Code No. JDS
Last First Middle
Address 4131 Henderson Rd., Evanston
Date of Birth¹ Social Security No. 270-99-1107
Date on Which Employment Began 12-12-38
Occupation Lathe Operator

Changes
in { Date of Change 2 New Occupation

Occupation { Date of Change 2 New Occupation
Compensation³ Piece rates From 12-12-38 To 9- 1-40
Compensation From 9- 1-40 To

Compensation From To
Compensation From To

(Time of Day and Name of Day on Which Workweek Begins....12:01 a.m. Sunday)⁴

³ That is, basis on which wages are paid.

⁴ This item is not necessary if the workweek of all employees is the same and this fact as well as the name of the day and time of day on which the workweek begins is noted somewhere in the employer's records.

Record-Keeping Regulations Illustrated

Sample payroll forms are presented to show one possible method of recording information required by regulations of Wage-Hour Administrator.

To illustrate the requirements of the Wage and Hour Administrator's new record-keeping regulations (4 WHR 492), the sample payroll forms below have been prepared by the editorial staff of WAGE AND HOUR REPORTER after consultation with officials of the Wage and Hour Division.

No particular form for keeping records is prescribed under the Administrator's regulations, which require only that certain specified data be recorded and preserved for a period of years. The employer is free to choose the form for maintaining these data which best fits his own requirements.

The sample forms below are designed to obviate the need for recording all of the information required each time the employer makes up his weekly, semi-monthly or monthly payroll record. Items which change only occasionally or not at all during each employee's period of employment are carried on a separate personnel record. Detailed information as to each employee's hours and earnings is recorded on individual weekly time sheets. In the payroll record itself appears only such information as is necessary to determine each employee's total compensation for the pay period.

The specimen records are those of a company which pays its employees once a week. All employees whose records are shown are assumed to be fully covered by the law. For homeworkers and employees compensated partly by tips additional information must be recorded. Where exemption is claimed for any employee, additional items of information may also be required; in some cases, less information is called for.

LOCATION OF DATA

The specific items of information required for employees fully covered by the law are handled in the sample forms in this manner:

A. Carried on personnel card:

1. Name in full and code number or abbreviation used to designate employee in weekly time sheets and weekly payroll record.

2. Home address.

3. Date of birth (required only if employee is under 19).

4. Occupation. Where this information is carried on the personnel card rather than the weekly payroll sheet, provision must be made for noting any change in the employee's occupation and the effective date of such change.

5. Time of day and name of day on which the employee's workweek begins. This does not necessarily mean the time at which the employee starts to work, but rather the beginning of the seven-day period which constitutes the employee's workweek for overtime purposes. Thus any hour of any day may be chosen as the time at which the employee's workweek begins, provided only that (a) this hour is not changed from week to week to avoid overtime liability and (b) the employee is paid overtime compensation for work in excess of 40 hours in the seven-day period following this time. If, as is usual, the workweek of all employees in the plant is considered to begin at the same time, this item may be omitted from the individual employee's personnel card. Under this circumstance a notation somewhere in the employer's records of the time of day and name of day on which the plant workweek begins is sufficient.

6. Basis on which wages are paid. This may be shown, the regulations explain, as "50¢ hr.", "\$3.00 a day", "piece rates", etc. As in the case of "occupation", provision must be made, if this information is not carried on weekly records, for showing any change in the basis on which the employee's wages are paid, together with the effective date of such change.

WEEKLY TIME SHEETS

B. Carried on weekly time sheets:

1. Hours worked each workday and total hours worked each workweek.

2. Total daily or weekly straight-time earnings or wages. In addition to salary, wages or piece-work earnings, this figure includes any bonus which is part of the employees' regular rate of pay (see 4 WHR 463) and any addition to the employee's straight-time earnings to bring his

average hourly earnings up to the minimum required under the Act.

3. Regular hourly rate of pay. This figure is determined, according to the Wage and Hour Division, by dividing total weekly straight-time earnings by total hours worked in that week.

C. Carried on summary payroll record:

1. Total hours worked.

2. Total straight-time earnings.

3. Overtime compensation. This is determined by multiplying one-half the employee's regular rate of pay by the number of hours worked in excess of 40.

4. Total earnings, i.e., the sum of straight-time earnings and overtime compensation.

5. Deductions from wages paid. In order to corroborate or justify the amounts shown as deductions, the employer is required either to itemize deductions or maintain separate supporting records.

6. Total wages paid.

7. Date of payment and period covered by payment.

BASES OF COMPENSATION

The sample forms below include the records of six employees, each of whom is compensated in a different manner. The first is paid an hourly wage plus production bonus; the second, a weekly salary for an indefinite number of hours per week; the third, a weekly salary for a definite number of hours per week; the fourth is compensated on a piece-rate basis.

Employees five and six are assumed to work in the same week at two occupations for each of which a different minimum wage applies under the Act. Under these circumstances, the employer who desires to take advantage of the lower minimum rate for the hours in the week in which the employee is subject to that rate must keep records showing the hours spent by the employee on products subject to each wage rate. Unless this additional information is recorded, the Division requires that the employee receive for the entire week the highest minimum rate to which he was entitled for any part of the week (see Sec. 516.8 of regulations, 4 WHR 496).

1. Hourly paid employee.

PERSONNEL RECORD

Name Tucker, James Wilson Code No. JWT
Last First Middle
Address 1426 Chicago Ave., Chicago
Date of Birth Social Security No. 129-99-4231
Date on Which Employment Began 5-15-29
Occupation Machine Operator

Changes in Occupation
Date of Change 2 New Occupation
60¢ hr. plus prod. bonus From To
Compensation From To
Compensation From To
Compensation From To
(Time of Day and Name of Day on Which Workweek Begins...12:01 a.m. Sunday)¹

3. Employee paid fixed salary for workweek of 40 hours.

PERSONNEL RECORD

Name Kellam, Louella Barr Code No. LBK
Last First Middle
Address 817 S. Lee St., Chicago
Date of Birth Social Security No. 356-99-2176
Date on Which Employment Began 10-4-39
Occupation Stenographer

Changes in Occupation
Date of Change 2 New Occupation
\$18 per week of 40 hours From 10- 4-39 To 1- 1-41
Compensation \$20 per week of 40 hours From 1- 1-41 To
Compensation From To
Compensation From To
(Time of Day and Name of Day on Which Workweek Begins...12:01 a.m. Sunday)¹

5. Employee paid minimum hourly wage and employed in the same workweek on two or more products for each of which a different minimum rate has been established by wage order.

PERSONNEL RECORD

Name Morris, Ivan Code No. IM
Last First Middle
Address 415 S. Lee St., Chicago
Date of Birth Social Security No. 130-96-4212
Date on Which Employment Began 12-6-40
Occupation Drill Press Operator

Changes in Occupation
Date of Change 2 New Occupation
Hourly wage (wage order minimum) From 12- 6-40 To
Compensation From To
Compensation From To
Compensation From To
(Time of Day and Name of Day on Which Workweek Begins...12:01 a.m. Sunday)¹

¹ Required only if employee is under 19.

² Not specifically required under regulations but necessary if employee's occupation is not listed each week in weekly payroll record.

2. Employee paid fixed salary for fluctuating workweek.

PERSONNEL RECORD

Name Dorrance, Edmund Hunter Code No. EHD
Last First Middle
Address 422 Davis St., Chicago
Date of Birth Social Security No. 154-99-2176
Date on Which Employment Began 6-1-38
Occupation Bookkeeper

Changes in Occupation
Date of Change 2 New Occupation
7-1-40 Clerical Supervisor
Compensation \$35 per week From 6- 1-38 To 9- 1-38
Compensation \$40 per week From 9- 1-38 To 7- 1-40
Compensation \$47 per week From 7- 1-40 To 10-15-40
Compensation \$50 per week From 10-15-40 To
(Time of Day and Name of Day on Which Workweek Begins...12:01 a.m. Sunday)¹

4. Employee paid piece rates with production bonus.

PERSONNEL RECORD

Name Denton, David Code No. DD
Last First Middle
Address 126 Railroad Ave., Chicago
Date of Birth June 4, 1924 Social Security No. 369-99-7241
Date on Which Employment Began 9-15-41
Occupation Multigraph Operator

Changes in Occupation
Date of Change 2 New Occupation
Piece rates and bonus From 9-15-41 To
Compensation From To
Compensation From To
Compensation From To
(Time of Day and Name of Day on Which Workweek Begins...12:01 a.m. Sunday)¹

6. Employee paid piece rates and employed in the same workweek on two or more products for each of which a different minimum rate has been established by wage order.

PERSONNEL RECORD

Name Sutton, James Davis Code No. JDS
Last First Middle
Address 4131 Henderson Rd., Evanston
Date of Birth Social Security No. 270-99-1107
Date on Which Employment Began 12-12-38
Occupation Lathe Operator

Changes in Occupation
Date of Change 2 New Occupation
Piece rates From 12-12-38 To 9- 1-40
Compensation From 9- 1-40 To
Compensation From To
Compensation From To
(Time of Day and Name of Day on Which Workweek Begins...12:01 a.m. Sunday)¹

¹ That is, basis on which wages are paid.

² This item is not necessary if the workweek of all employees is the same and this fact as well as the name of the day and time of day on which the workweek begins is noted somewhere in the employer's records.

1. Hourly paid employee. In addition to daily and weekly hours of work, this employee's time sheet shows (a) his hourly rate, (b) total hourly earnings for the week (hourly rate times hours worked), (c) any bonus payments which must be included in determining the employee's hourly rate of pay for the week, (d) total straight-time earnings (total hourly earnings plus bonus), and (e) the employee's regular rate of pay for the week (total straight-time earnings divided by total hours worked). If the employee had received no bonus during the week, his regular rate of pay would have been the same as the hourly rate at which he was employed.

WEEKLY TIME SHEET (Hourly Paid Employee)

Name or Code No. JWT		Workweek Ending 10-11-41		
Day	Starting Time	Quitting Time	Time off for Lunch	Hours Worked
Sunday	....	....	..	..
Monday	8:00	4:45	3/4	8
Tuesday	7:00	4:45	3/4	9
Wednesday	7:00	4:45	3/4	9
Thursday	7:00	6:15	1/4	11
Friday	7:00	4:45	3/4	9
Saturday	....	....	..	..
TOTAL				46
Hourly Rate	60c			
Hourly Earnings				\$27.60
Bonus				.92
Total Straight Time Earnings				\$28.52
Regular Hourly Rate of Pay		62c		

3. Employee paid fixed salary for workweek of 40 hours. Where the employee's salary covers only a fixed number of hours per week, as in this instance, the Wage and Hour Division requires that the regular rate of pay be computed by dividing the weekly salary by the number of hours in his regular workweek rather than by the number of hours actually worked in any given week (See Interpretative Bulletin No. 4, 1941 WH Man. 128). For hours in excess of 40 in any week, an employee compensated in this manner is said to be entitled to his regular hourly rate plus an additional amount equal to half his regular hourly rate as overtime compensation.

This employee's time sheet therefore shows, in addition to total daily and weekly hours of work, (a) his weekly salary, (b) additional earnings at straight time (hourly rate times number of hours worked in excess of his regular workweek), (c) total straight-time earnings (weekly salary plus additional straight-time earnings) and (d) regular rate of pay. The regular rate of pay is determined either by dividing weekly salary by number of hours in the employee's regular workweek or by dividing total straight-time earnings by number of hours actually worked. Both methods produce the same result.

WEEKLY TIME SHEET (Salaried Employee)

Name or Code No. LBK		Workweek Ending 10-11-41		
Day	Starting Time	Quitting Time	Time off for Lunch	Hours Worked
Sunday	.....	.....	..	..
Monday	.....	.....	..	..
Tuesday	9:15	6:15	¾	8¼
Wednesday	8:45	6:00	¾	8½
Thursday	9:00	6:30	½	9
Friday	8:30	5:45	..	9¼
Saturday	9:00	3:30	½	6
TOTAL				41
Weekly Salary or Weekly Salary Equivalent ⁵				\$20.00
Additional Earnings at Straight Time ⁶				.50
Total Straight-Time Earnings				\$20.50
Regular Hourly Rate of Pay			50c	

2. Employee paid fixed salary for fluctuating workweek. In addition to total daily and weekly hours of work, this employee's time sheet shows (a) weekly salary and (b) regular rate of pay (weekly salary divided by total hours worked).

WEEKLY TIME SHEET (Salaried Employee)

Name or Code No. EHD		Workweek Ending 10-11-41		
Day	Starting Time	Quitting Time	Time off for Lunch	Hours Worked
Sunday	....	....	..	..
Monday	8:15	5:15	1	8
Tuesday	8:15	6:15	1	9
Wednesday	8:00	6:30	1½	9
Thursday	7:45	8:15	2½	10
Friday	8:15	4:45	½	8
Saturday	....	....	..	..
TOTAL				44
Weekly Salary or Weekly Salary Equivalent ⁵				\$50
Regular Hourly Rate of Pay			\$1.14	

4. Employee paid piece rate plus production bonus. In addition to total daily and weekly hours of work, this employee's time sheet shows (a) piece rate earnings at each job worked on during the week, (b) any makeup payments necessary to bring the employee's average hourly earnings up to the legal minimum wage, (c) total straight-time earnings (piece work earnings plus makeup), and (d) regular rate of pay (total straight-time earnings divided by total hours worked).

WEEKLY TIME SHEET (Piece Worker)

Name or Code No. DD		Workweek Ending 10-11-41		
Day	Starting Time	Quitting Time	Time off for Lunch	Hours Worked
Sunday	3:15	5:15		2
Monday	7:30	4:00	1/2	8
Tuesday	7:30	6:00	1/2	10
Wednesday	7:30	5:00	1/2	9
Thursday	7:30	5:00	1/2	9
Friday	7:15	3:45	1/2	8
Saturday	7:15	1:45	1/2	6
TOTAL				52

Job: 34G	1,200	@ .05¢	\$.60
Job: 12H	10,000	@ .13¢	\$13.00
Makeup ⁷			\$ 2.00
Total Straight Time Earnings			\$15.60
Regular Rate of Pay	30¢		

⁵ In the case of employees paid a monthly salary, the weekly salary equivalent is determined by multiplying the monthly salary by 52 and dividing the product by 12.

⁶ Where the employee's salary covers only a fixed number of hours per week (in this instance 40), the employee is entitled to his straight-time hourly rate, as well as an additional amount equal to half this rate, for overtime hours.

⁷ That is, supplements to piece-work earnings paid to bring the employee's minimum earnings up to the legal minimum.

5. Hourly rate employee covered by two or more wage orders in one week. Where an employee of this kind is not paid at least the highest applicable minimum rate for the entire week, the employer must record additional data showing the type of products worked on during the week, the legal minimum rate for work on each type of product, the number of hours worked on each type of product, the lot number of all goods which the employee worked on during the week, and the hourly wage which the employee was paid for the period he was covered by each wage order.

In the example below, the employee is assumed to have worked on three lots of goods subject to the 35-cent wage order for the luggage and leather goods industry and three lots subject to the 40-cent wage order for the leather industry. Hours spent and wages earned under each wage order are shown, as well as total hours and total straight-time earnings for the week. As in other examples, the employee's regular rate of pay is determined by dividing his total weekly earnings by total hours worked.

WEEKLY TIME SHEET

(Hourly Rate Employee Covered by Two Wage Orders in One Week)

Name or Code No.	IM	Workweek Ending			10-11-41
Day	Starting Time	Quitting Time	Time off for Lunch	Hours Worked	
Sunday	.....	.....	..	..
Monday	8:30	4:15	$\frac{3}{4}$	7	
Tuesday	8:30	5:15	$\frac{3}{4}$	8	
Wednesday	8:30	5:15	$\frac{3}{4}$	8	
Thursday	7:30	5:15	$\frac{3}{4}$	9	
Friday	8:30	5:15	$\frac{3}{4}$	8	
Saturday	8:30	3:30	$\frac{1}{2}$	$6\frac{1}{2}$	
TOTAL				$46\frac{1}{2}$	
Product	Wage Order Rate	Hours Worked	Lot No.	Hourly Rate Earnings	
Luggage & Leather Goods	35¢	$\left\{ \begin{array}{l} 5\frac{1}{4} \\ 7\frac{3}{4} \\ 9 \end{array} \right.$	$\begin{array}{l} 36R \\ 34R \\ 34S \end{array}$		
Total		22		35¢ \$7.70	
Leather	40¢	$\left\{ \begin{array}{l} 6\frac{1}{2} \\ 7\frac{1}{2} \\ 10\frac{1}{2} \end{array} \right.$	$\begin{array}{l} 13B \\ 14B \\ 36D \end{array}$		
Total		$24\frac{1}{2}$		40¢ \$9.80	
Total Hours		$46\frac{1}{2}$			
Total Straight Time Earnings				\$17.50	
Regular Rate of Pay				38¢	

WEEKLY PAYROLL RECORD

Name or Code No.	Hours Worked	Total Straight Time Earnings	Overtime Compensation	Total Earnings	Fed. SS. Taxes	Deductions (Other (Itemized))	Total Wages Paid
JWT	46	\$28.52	\$1.86	\$30.38	\$.30	\$1.00 (checkoff) \$1.50 (group hospitalization)	\$27.58
LBK	41	20.50	.25	20.75	.21	\$1.00 (checkoff)	19.54
EHD	44	50.00	2.28	52.28	.52	\$1.50 (group hospitalization)	50.26
DD	52	15.60	1.80	17.40	.17	\$.75 (checkoff)	16.48
JDS	44	16.30	.74	17.04	.17	\$.75 (checkoff)	16.12
IM	46 1/2	17.50	1.24	18.74	.19	\$.75 (checkoff)	17.80

6. Piece rate employee covered by two or more wage orders in one week. Here again additional information must be recorded if the employer wishes to take advantage of the lower wage order rate for part of the week. The wage orders to which the employee was subject during the week, as well as the minimum rates under each order, are listed. The employee is assumed to have worked on two lots of goods subject to the luggage wage order and three lots subject to the leather order. For each lot the number of units produced, the piece rate per unit and the employee's earnings on that lot (piece rate times number of units) are shown. Number of hours worked and piece rate earnings under each of the two wage orders are totaled separately, and if necessary, makeup payment is added to bring the employee's straight-time earnings under either wage order up to the required minimum. The Division does not permit the employer to offset deficiencies in the employee's earnings under one wage order by earnings in excess of the minimum under another.

WEEKLY TIME SHEET

(Piece Worker Covered by Two Wage Orders in One Week)

Name or Code No. JDS		Workweek Ending 10-11-41		
Day	Starting Time	Quitting Time	Time off for Lunch	Hours Worked
Sunday	....	....	..	..
Monday	8:30	4:15	¾	7
Tuesday	8:30	5:15	¾	8
Wednesday	8:30	5:15	¾	8
Thursday	7:30	5:15	¾	9
Friday	8:30	5:15	¾	8
Saturday	8:30	12:30	..	4
TOTAL				44

Product	Wage Order Rate	Hours Worked	Lot No.	Units	Piece Rate	Earnings	
Luggage & Leather Goods	35¢	{ 25	32A	90	10¢	\$9.00	
			35A	10	5¢	.50	
					Makeup	.30	
		Total 28			Total	\$9.80	
Leather	40¢	{ 8	37A	30	10¢	\$3.00	
			4½	37B	8	25¢	2.00
			3½	38B	6	25¢	1.50
					Makeup	....
		Total 16			Total	\$6.50	
Total Hours		44					
Total Straight Time Earnings						\$16.30	
Regular Rate of Pay					37¢		

1. Hourly paid employee. In addition to daily and weekly hours of work, this employee's time sheet shows (a) his hourly rate, (b) total hourly earnings for the week (hourly rate times hours worked), (c) any bonus payments which must be included in determining the employee's hourly rate of pay for the week, (d) total straight-time earnings (total hourly earnings plus bonus), and (e) the employee's regular rate of pay for the week (total straight-time earnings divided by total hours worked). If the employee had received no bonus during the week, his regular rate of pay would have been the same as the hourly rate at which he was employed.

WEEKLY TIME SHEET
(Hourly Paid Employee)

Name or Code No.		JWT	Workweek Ending 10-11-41		
Day	Starting Time	Quitting Time	Time off for Lunch	Hours Worked	
Sunday	....	....	..	..
Monday	8:00	4:45	3/4	8	
Tuesday	7:00	4:45	3/4	9	
Wednesday	7:00	4:45	3/4	9	
Thursday	7:00	6:15	3/4	11	
Friday	7:00	4:45	3/4	9	
Saturday	....	....	..	..
TOTAL				46	
Hourly Rate		60c			
Hourly Earnings			\$27.60		
Bonus			.92		
Total Straight Time Earnings			\$28.52		
Regular Hourly Rate of Pay		62c			

3. Employee paid fixed salary for workweek of 40 hours. Where the employee's salary covers only a fixed number of hours per week, as in this instance, the Wage and Hour Division requires that the regular rate of pay be computed by dividing the weekly salary by the number of hours in his regular workweek rather than by the number of hours actually worked in any given week (See Interpretative Bulletin No. 4, 1941 WH Man. 128). For hours in excess of 40 in any week, an employee compensated in this manner is said to be entitled to his regular hourly rate plus an additional amount equal to half his regular hourly rate as overtime compensation.

This employee's time sheet therefore shows, in addition to total daily and weekly hours of work, (a) his weekly salary, (b) additional earnings at straight time (hourly rate times number of hours worked in excess of his regular workweek), (c) total straight-time earnings (weekly salary plus additional straight-time earnings) and (d) regular rate of pay. The regular rate of pay is determined either by dividing weekly salary by number of hours in the employee's regular workweek or by dividing total straight-time earnings by number of hours actually worked. Both methods produce the same result.

WEEKLY TIME SHEET
(Salaried Employee)

Name or Code No.	LBK	Workweek Ending 10-11-41		
Day	Starting Time	Quitting Time	Time off for Lunch	Hours Worked
Sunday	.....	.....	..	..
Monday	.....	.....	..	..
Tuesday	9:15	6:15	¾	8¼
Wednesday	8:45	6:00	¾	8½
Thursday	9:00	6:30	½	9
Friday	8:30	5:45	½	9¼
Saturday	9:00	3:30	½	6
TOTAL				41
Weekly Salary or Weekly Salary Equivalent ⁵				\$20.00
Additional Earnings at Straight Time ⁶				.50
Total Straight-Time Earnings				\$20.50
Regular Hourly Rate of Pay			50c	

2. Employee paid fixed salary for fluctuating workweek. In addition to total daily and weekly hours of work, this employee's time sheet shows (a) weekly salary and (b) regular rate of pay (weekly salary divided by total hours worked).

WEEKLY TIME SHEET
(Salaried Employee)

Name or Code No. EHD		Workweek Ending 10-11-41		
Day	Starting Time	Quitting Time	Time off for Lunch	Hours Worked
Sunday	.....	.....	..	..
Monday	8:15	5:15	1	8
Tuesday	8:15	6:15	1	9
Wednesday	8:00	6:30	1½	9
Thursday	7:45	8:15	2½	10
Friday	8:15	4:45	½	8
Saturday	....	....	..	..
TOTAL				44
Weekly Salary or Weekly Salary Equivalent ⁵				\$50
Regular Hourly Rate of Pay			\$1.14	

4. Employee paid piece rate plus production bonus. In addition to total daily and weekly hours of work, this employee's time sheet shows (a) piece rate earnings at each job worked on during the week, (b) any makeup payments necessary to bring the employee's average hourly earnings up to the legal minimum wage, (c) total straight-time earnings (piece work earnings plus makeup), and (d) regular rate of pay (total straight-time earnings divided by total hours worked).

WEEKLY TIME SHEET
(Piece Worker)

Name or Code No. DD		Workweek Ending 10-11-41		
Day	Starting Time	Quitting Time	Time off for Lunch	Hours Worked
Sunday	3:15	5:15		2
Monday	7:30	4:00	1/2	8
Tuesday	7:30	6:00	1/2	10
Wednesday	7:30	5:00	1/2	9
Thursday	7:30	5:00	1/2	9
Friday	7:15	3:45	1/2	8
Saturday	7:15	1:45	1/2	6
TOTAL				52

Job: 34G	1,200 Units	@ .05c Piece Rate	\$.60
Job: 12H	10,000 Units	@ .13c Piece Rate	\$13.00
Makeup ⁷			\$ 2.00
Total Straight Time Earnings			\$15.60
Regular Rate of Pay		30¢	

⁵ In the case of employees paid a monthly salary, the weekly salary equivalent is determined by multiplying the monthly salary by 52 and dividing the product by 12.

⁶ Where the employee's salary covers only a fixed number of hours per week (in this instance 40), the employee is entitled to his straight-time hourly rate, as well as an additional amount equal to half this rate, for overtime hours.

⁷ That is, supplements to piece-work earnings paid to bring the employee's minimum earnings up to the legal minimum.

5. Hourly rate employee covered by two or more wage orders in one week. Where an employee of this kind is not paid at least the highest applicable minimum rate for the entire week, the employer must record additional data showing the type of products worked on during the week, the legal minimum rate for work on each type of product, the number of hours worked on each type of product, the lot number of all goods which the employee worked on during the week, and the hourly wage which the employee was paid for the period he was covered by each wage order.

In the example below, the employee is assumed to have worked on three lots of goods subject to the 35-cent wage order for the luggage and leather goods industry and three lots subject to the 40-cent wage order for the leather industry. Hours spent and wages earned under each wage order are shown, as well as total hours and total straight-time earnings for the week. As in other examples, the employee's regular rate of pay is determined by dividing his total weekly earnings by total hours worked.

WEEKLY TIME SHEET

(Hourly Rate Employee Covered by Two Wage Orders in One Week)

Name or Code No.	IM	Workweek Ending			10-11-41
Day	Starting Time	Quitting Time	Time off for Lunch	Hours Worked	
Sunday	....	....	..	..
Monday	8:30	4:15	3/4	7	
Tuesday	8:30	5:15	3/4	8	
Wednesday	8:30	5:15	3/4	8	
Thursday	7:30	5:15	3/4	9	
Friday	8:30	5:15	3/4	8	
Saturday	8:30	3:30	1/2	6 1/2	
TOTAL				46 1/2	
Product	Wage Order Rate	Hours Worked	Lot No.	Hourly Rate	Earnings
Luggage & Leather Goods	35¢	{ 5 1/4 7 3/4 9	36R 34R 34S		
		Total 22		35¢	\$7.70
Leather	40¢	{ 6 1/2 7 1/2 10 1/2	13B 14B 36D		
		Total 24 1/2		40¢	\$9.80
Total Hours		46 1/2			
Total Straight Time Earnings					\$17.50
Regular Rate of Pay				38¢	

6. Piece rate employee covered by two or more wage orders in one week. Here again additional information must be recorded if the employer wishes to take advantage of the lower wage order rate for part of the week. The wage orders to which the employee was subject during the week, as well as the minimum rates under each order, are listed. The employee is assumed to have worked on two lots of goods subject to the luggage wage order and three lots subject to the leather order. For each lot the number of units produced, the piece rate per unit and the employee's earnings on that lot (piece rate times number of units) are shown. Number of hours worked and piece rate earnings under each of the two wage orders are totaled separately, and if necessary, makeup payment is added to bring the employee's straight-time earnings under either wage order up to the required minimum. The Division does not permit the employer to offset deficiencies in the employee's earnings under one wage order by earnings in excess of the minimum under another.

WEEKLY TIME SHEET

(Piece Worker Covered by Two Wage Orders in One Week)

Name or Code No. JDS		Workweek Ending 10-11-41			
Day	Starting Time	Quitting Time	Time off for Lunch	Hours Worked	
Sunday	....	....	..	..
Monday	8:30	4:15	3/4	7	
Tuesday	8:30	5:15	3/4	8	
Wednesday	8:30	5:15	3/4	8	
Thursday	7:30	5:15	3/4	9	
Friday	8:30	5:15	3/4	8	
Saturday	8:30	12:30	..	4	
TOTAL				44	
Product	Wage Order Rate	Hours Worked	Lot No. Units	Piece Rate	Earnings
Luggage & Leather Goods	35¢	{ 25	32A 90	10¢	\$9.00
		{ 3	35A 10	5¢	.50
		Total 28			Makeup .30
				Total	\$9.80
Leather	40¢	{ 8	37A 30	10¢	\$3.00
		{ 4 1/2	37B 8	25¢	2.00
		{ 3 1/2	38B 6	25¢	1.50
				Makeup	.....
		Total 16		Total	\$6.50
Total Hours		44			
Total Straight Time Earnings			\$16.30		
Regular Rate of Pay			37¢		

WEEKLY PAYROLL RECORD

Name or Code No.	Code	Hours Worked	Total Straight Time Earnings	Overtime Compensation	Total Earnings	Fed. SS. Taxes	Deductions Other (Itemized)	Total Wages Paid
JWT		46	\$28.52	\$1.86	\$30.38	\$.30	\$1.00 (checkoff) \$1.50 (group hospitalization)	\$27.58
LBK		41	20.50	.25	20.75	.21	\$1.00 (checkoff)	19.54
EHD		44	50.00	2.28	52.28	.52	\$1.50 (group hospitalization)	50.26
DD		52	15.60	1.80	17.40	.17	\$.75 (checkoff)	16.48
JDS		44	16.30	.74	17.04	.17	\$.75 (checkoff)	16.12
IM		46 1/2	17.50	1.24	18.74	.19	\$.75 (checkoff)	17.80

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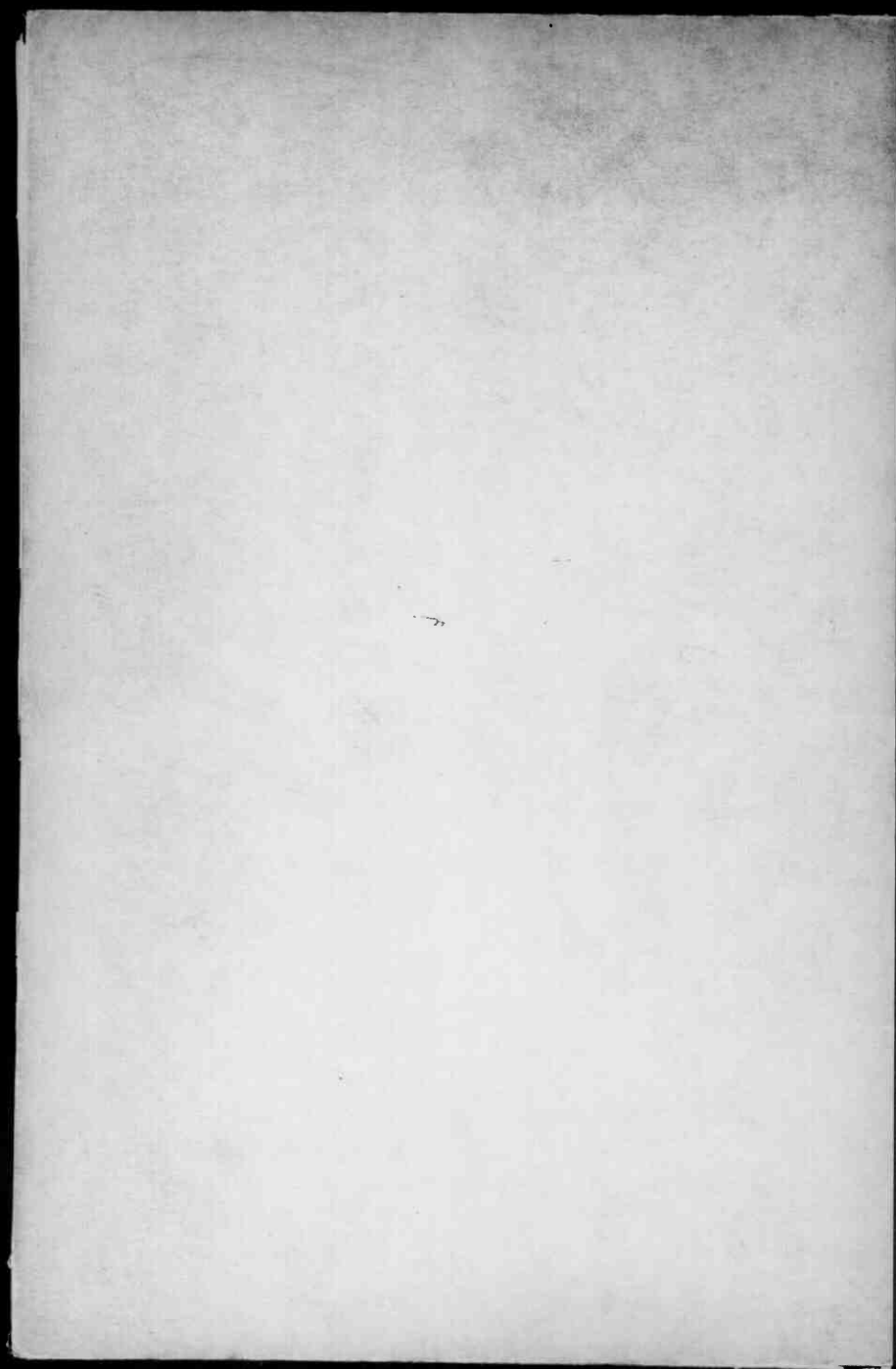
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